

THE BENGAL CODE
VOLUME II.

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THE BENGAL CODE,

IN FIVE VOLUMES:

CONTAINING

THE REGULATIONS AND LOCAL ACTS

IN FORCE IN BENGAL;

WITH

CHRONOLOGICAL AND OTHER TABLES AND LISTS,
NOTES AS TO SCHEDULED DISTRICTS AND DE-REGULATIONISED TRACTS, AND
NOTIFICATIONS DECLARING ENACTMENTS IN FORCE IN, OR EXTENDING ENACTMENTS
TO, SUCH DISTRICTS AND TRACTS,

AND

A FULL INDEX.

THIRD EDITION,

EDITED BY

F. G. WIGLEY,

OF THE INNER TEMPLE, BARRISTER-AT-LAW,
ADDITIONAL DEPUTY SECRETARY TO THE GOVERNMENT OF INDIA IN THE
LEGISLATIVE DEPARTMENT.

VOLUME II.

ENACTMENTS—H TO L

CALCUTTA:

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PREFACE.

THIS, the second volume of the third edition of the Bengal Code, contains such of the Regulations and local Acts in force in Bengal as have been grouped under headings commencing with the letters H to L. The system followed in editing the volume is described in the general explanatory note prefixed to Volume V, which is now in the Press.

F. G. WIGLEY,

*Additional Deputy Secretary to the
Government of India, Legislative Department.*

CALCUTTA ;

The 11th March, 1905.

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THE BENGAL CODE,

VOLUME II.

HACKNEY-CARRIAGES AND PALANQUINS.

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HACKNEY-CARRIAGES AND PALANQUINS.

THE CALCUTTA HACKNEY-CARRIAGE ACT, 1891. [Ben. Act 2

(Chapter I.—Preliminary.—Secs. 1, 2.)

THE CALCUTTA HACKNEY-CARRIAGE ACT, 1891

(BENGAL ACT 2 OF 1891).^[1]

[23rd September, 1891.]

An Act to consolidate and amend the law relating to Hackney-carriages and Palanquins in Calcutta.

WHEREAS it is expedient to consolidate and amend the law relating to hackney-carriages and palanquins in Calcutta ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Title.

1. (1) This Act may be called the Calcutta Hackney-carriage Act, 1891.

(2) [Commencement.] Rep. by the Repealing and Amending Act, 1903 (1 of 1903).

Application and extension of Act.

(3) It shall apply to Calcutta as hereinafter^[2] defined, and may be extended from time to time to any other town or place in Bengal by a notification published in the Calcutta Gazette.

Repeal.

2. (1) Acts 5 of 1866 and 4 of 1878 are hereby repealed.

Savings.

(2) This repeal shall not affect the validity of anything done or suffered,

[1] LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1891, Pt. IV, p. 12 ; and for Proceedings in Council, see *ibid*, Supplement, 1891, pp. 634 and 1311.

LOCAL EXTENT.—This Act applies to Calcutta, and may be extended to any other town or place in Bengal—see s. 1 (3). As to the meaning of "Calcutta", see ss. 3 (1) and 4. As to the appointment of officers, and the modification of certain sections, when the Act is extended to any place, see s. 61, *post*, p. 24.

For a list of places to which this Act has been extended under section 1, see Appendix I, *post*, p. 26.

For a list of places to which Ben. Act 5 of 1866 was extended and in which the present Act is in force by virtue of the saving of extensions in s. 2 (2), see Appendix II, *post*, p. 27.

The application of the Act is barred—

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), s. 3 (2), printed in Vol. I, p. 257 ;

and

in the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation (3 of 1872), s. 3 (2), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s. 3, printed in Vol. I, p. 294.

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PUBLIC PARKS.—For power to make rules to regulate the admission of carriages and palanquins into a public park, see the Bengal Public Parks Act, 1904 (Ben. Act 2 of 1904), s. 4 (a), printed in Vol. IV of this Code.

[2] See s. 3 (1), *post*, p. 7.

HACKNEY-CARRIAGES AND PALANQUINS.

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of 1891.] THE CALCUTTA HACKNEY-CARRIAGE ACT, 1891.

(Chapter I.—Preliminary.—Secs. 3, 4.)

or of any right, title, obligation or liability which may have accrued; and all appointments, extensions and registrations made, licenses issued, notifications published, penalties incurred, and other things duly done under any such enactments shall, so far as they are consistent with this Act, be deemed to have been respectively made, issued, published, incurred or done hereunder.

(3) All references made to any such enactment shall, as far as may be practicable, be deemed to be made to this Act.

(4) All proceedings now pending which may have been commenced under any such enactment shall be deemed to be commenced under this Act.

3. In this Act, unless there is something repugnant in the subject or context,— Definitions.

Ben. Act 2 of
1888

(1) "Calcutta" (subject to the inclusion or exclusion of any local area by the Local Government under section 4) means Calcutta as defined by the Calcutta Municipal Consolidation Act, 1888;[1]

(2) "hackney-carriage" means any wheeled vehicle drawn by horses and used for the conveyance of passengers which is kept or offered, or plies for hire by the hour or day or according to distance; but shall not include any carriage used wholly upon any railway or tramway;

(3) "horse" includes mule and pony;

(4) "stage-carriage" means any hackney-carriage, the passengers in which shall be charged or shall pay separate and distinct fares, or shall be charged or pay, at the rate of separate and distinct fares, for their respective places or seats therein or conveyance thereby;

(5) "the Commissioners" means the Corporation of Calcutta.

4. The Local Government may, by notification published in the Calcutta Gazette, exclude from Calcutta any local area or include therein any local area in the vicinity of the same, and defined in the notification: Alteration of limits of Calcutta.

Provided that, where the local area to be included is a Military Cantonment, or part of a Military Cantonment, a notification shall not be published under this section in respect of it without the previous sanction of the Governor General in Council. proviso.

[1] Ben. Act 2 of 1888 has been repealed and re-enacted by the Calcutta Municipal Act, 1899 (Ben. Act 3 of 1899), and this reference should now, in accordance with the Bengal General Clauses Act, 1899 (Ben. Act 1 of 1899), s. 10 (printed in Vol. I, p. 10), be construed as a reference to s. 3 (7) of the said Calcutta Municipal Act, 1899 (printed in Vol. III of this Code).

CHAPTER II.

REGISTRATION OF HACKNEY-CARRIAGES.

Hackney-carriages to be registered annually.

5. (1) Every hackney-carriage in Calcutta [1] shall be annually registered[2] by a Registering Officer who shall be appointed for the purpose by the Commissioners, and who shall keep a register in which he shall enter every hackney-carriage under either the first, the second or the third class.

Registering Officer to be under control of Chairman of Commissioners.

(2) Every act, matter or thing done by the Registering Officer, under or by virtue of this Act, shall be subject to the control of the Chairman of the Commissioners.

Appointment and removal of Registering Officer.

(3) The appointment and removal of such Registering Officer shall be subject to the provisions of section 41 of the Calcutta Municipal Consolidation Act, 1888. [3]

Ben. Act 2 of 1888.

Time and duration of registry.

6. The year of registration shall commence on the first day of October of each year and shall terminate on the 30th day of September following.

Application for registry.

7. (1) The owner of any carriage, who is desirous of registering it as a hackney-carriage, shall apply to the Registering Officer stating the class in which he desires that the carriage may be registered, and shall submit the carriage for the inspection of the Registering Officer.

Application may be granted or refused.

(2) The Registering Officer shall decide whether the carriage is fit to be registered in the class applied for and shall register it in that class or refuse to grant the application.

"Owner" of carriage.

(3) The person in whose name any carriage is registered shall be deemed the owner of such carriage for the purposes of this Act.

License to be delivered to owner.

8. (1) The Registering Officer shall, at the time of registration, deliver a license duly signed by him to the owner of every hackney-carriage.

Duration of license.

(2) Such license shall be in force for the year of registration.

[1] As to the meaning of "Calcutta", see ss. 3 (1) and 4, *ante*, p. 7. As to the substitution of the names of other places, see s. 61 (3), *post*, p. 24.

[2] The Registrar must, before registering any hackney-carriage, satisfy himself that the tax imposed under s. 188 of the Calcutta Municipal Act, 1899 (Ben. Act 3 of 1899), upon such carriage and the animals used therefor has been duly paid for the last preceding half-year and the next ensuing half-year—see s. 190 of that Act, in Vol. III of this Code.

[3] Ben. Act 2 of 1888 has been repealed and re-enacted by the Calcutta Municipal Act, 1899 (Ben. Act 3 of 1899), and this reference should now, in accordance with the Bengal General Clauses Act, 1899 (Ben. Act 1 of 1899), s. 10 (printed in Vol. I, p. 10), be construed as a reference to s. 63 of the said Calcutta Municipal Act, 1899 (printed in Vol. III of this Code).

As to the suspension or dismissal of officers, see the Bengal General Clauses Act, 1899 (Ben. Act 1 of 1899), s. 17, in Vol. I, p. 11.

In places beyond "Calcutta," as defined in s. 3 (1), *ante*, p. 7, for the words "41 of the Calcutta Municipal Consolidation Act, 1888", read the words "46 of the Bengal Municipal Act, 1884"—see s. 61 (3), *post*, p. 24.

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9. The following particulars shall be entered in the register and shall be specified in the license to be given to the owner :—

Particulars of register and license.

- (a) the class and the number assigned to the carriage in the register ;
- (b) the name and residence of the owner, the description of the carriage, and the place where such carriage is intended to be kept ;
- (c) the number and description of horses to be employed in drawing such carriage, and the place where such horses are intended to be kept ;
- (d) the number of persons the carriage is licensed to carry.

10. A fee of four rupees shall be paid for each registration of a carriage of the first class, a fee of three rupees for each registration of a carriage of the second class, and a fee of two rupees for each registration of a carriage of the third class.

Fee for registration.

11. The Registering Officer may suspend for such period as he thinks fit or cancel the registration of any carriage and the license granted to the driver under this Act, whenever it shall appear to him that such carriage or any horse or harness used with such carriage is unfit for public use ; due regard being had to the class in which such carriage is registered.

Registration of carriage and driver's license may be suspended or cancelled.

12. (1) Whenever any change shall take place in the ownership of a hackney-carriage, if the person to whom such carriage shall have been transferred shall desire to use it as a hackney-carriage, he shall before so using it give to the Registering Officer notice in writing of such transfer, and shall include in such notice the particulars specified in clauses (b) and (c) of section 9.

Notice to be given of change of ownership.

(2) If any such person shall, before giving such notice as aforesaid, use such carriage as a hackney-carriage, he shall be liable to a fine not exceeding five rupees for every day during which he shall so use the same.

Penalty for using carriage before giving notice.

13. (1) Whenever the owner or driver of a registered hackney-carriage shall change his residence or the place where such carriage and horses are kept, he shall, within one week from the date of such change, give to the Registering Officer a notice in writing which shall include the particulars specified in clauses (b) and (c) of section 9.

Notice to be given of change of residence or place.

(2) Every such owner or driver who shall neglect to give such notice shall be liable for every such offence to a fine not exceeding ten rupees.

Penalty for neglect to give notice.

14. The Registering Officer, on receiving the notices specified in either of the two last preceding sections, shall make the necessary alteration in the register and in the license ; and a fee of eight annas shall be chargeable in respect thereof.

Change of ownership or residence to be entered in register.

15. (1) Whoever keeps or is the proprietor of any hackney-carriage which

Penalty for keeping *

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(Chapter III.—Plate on Hackney-carriages.—Secs. 16-18.)

has not been duly registered under this Act shall be liable to a fine not exceeding one hundred rupees.

Seizure of such carriage and horse.

(2) Any police-officer or any person duly authorised by the Commissioners in that behalf and wearing a distinctive badge to indicate his official capacity may seize and remove to a police-station such carriage, together with the horse drawing the same.

When such carriage or horse may be sold.

(3) If the hackney-carriage or horse so seized be not claimed, and if any fine imposed be not paid, together with any cost or charges incurred within ten days of such seizure or imposition of such fine respectively, such carriage and the horse seized therewith may be sold by auction, and the proceeds applied to the payment of the fine and all costs and charges incurred on account of the detention and sale.

When surplus to be credited to Hackney-carriage Fund.

(4) The surplus, if any, if not claimed by the owner within a further period of twenty days, shall be credited to the Hackney-carriage Fund.

CHAPTER III.

PLATE ON HACKNEY-CARRIAGES.

Plate to be affixed outside carriage.

16. Upon the registration of any hackney-carriage, the Registering Officer shall provide a plate bearing the class and the number of such carriage in the register and the number of persons it is licensed to carry, and shall cause such plate to be affixed on some conspicuous part of the outside of the carriage.

Penalty for using carriage without plate.

17. If any hackney-carriage shall be let, used, or ply for hire without having a proper plate duly affixed as required by the last preceding section, the owner thereof shall be liable to a fine not exceeding fifty rupees.

New plate may be had on loss or obliteration of former one.

18. Whenever the words or figures on any plate shall, during the term of the license, become indistinct or obliterated, and also whenever any plate shall have been lost or stolen, the owner of the hackney-carriage on which such plate was affixed shall deliver such plate (if he shall have the same in his possession) to the Registering Officer, and shall be entitled to have a new plate affixed upon payment of one rupee :

Penalty for using obliterated plate or for failing to deliver lost plate when recovered.

Provided that if any plate which shall have been proved to have been lost or stolen shall afterwards be recovered, the same shall forthwith be delivered to the Registering Officer ; and every person in or into whose possession any such plate as last aforesaid shall be or come and who shall refuse or neglect for three days to deliver the same to the said Registering Officer, and also every registered owner who shall use or permit to be used any plate after the writing

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thereon shall have become indistinct or obliterated shall, for every such offence, be liable to a fine not exceeding ten rupees.

19. (1) On the expiration or other determination of the registration, the owner of every hackney-carriage shall cause the plate of such hackney-carriage to be delivered to the Registering Officer.

Plate to be delivered on expiry of registration.

(2) Any person who, after the expiration of the period aforesaid, shall wilfully neglect for three days to deliver the plate to the said Officer, and every person who shall retain any plate affixed in respect of a registration which is no longer in force shall, for every such offence, be liable to a fine not exceeding fifty rupees.

Penalty for neglecting to deliver such plate.

20. (1) Every person who shall, for the purpose of deception, use or have any plate resembling or intended to resemble any plate affixed under this Act shall, for every such offence, be liable to a fine not exceeding two hundred rupees.

Penalty for fraudulently using counterfeit plate.

(2) It shall be lawful for any Police-officer or any person employed for the purposes of this Act by the Registering Officer, to seize and take away any plate used or had as aforesaid wheresoever the same may be found, and to deliver the same to the Registering Officer.

Police may seize counterfeit plate.

CHAPTER IV.

DRIVER'S LICENSE.

21. (1) It shall be lawful for the Registering Officer to grant a license to act as driver of any hackney-carriage to any person who shall apply for the same, and to whom it may seem proper to the said Officer to grant it:

Driver of hackney-carriages to have license.

Provided that no person shall be so licensed who is under sixteen years of age.

Proviso.

(2) Every such license shall contain—

Particulars of license.

(a) the number of the license;

(b) the name, father's name, place of abode, and age of the person to whom such license is granted;

(c) the description of carriage and horses such person is licensed to drive;

(d) the date on which the license was granted,

and shall bear the signature of the Registering Officer.

(3) The license shall continue in force for one year from the date thereof unless the same shall be sooner revoked or suspended.

Duration of license.

(4) For every such license there shall be paid a fee of two rupees.

Fee for license

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Secs. 22-26.)

Penalty for
not having
license or
lending it out.

22. If any person shall act as the driver of a hackney-carriage without having a license in force for the time being, or having a license shall transfer or lend the same or allow the same to be used by any other person, he shall be liable to a fine not exceeding twenty rupees, and in default of payment of fine to imprisonment for a period not exceeding fourteen days.

Penalty for
suffering
unlicensed
person to act
as driver.

23. Any owner of a hackney-carriage who shall suffer any person not duly licensed under this Act to act as driver of any hackney-carriage of which he shall be the owner, shall be liable, for every such offence, to a fine not exceeding fifty rupees :

Proviso.

Provided that such owner and such unlicensed driver shall be subject to all the provisions of this Act, for any act done or omitted to be done by such driver during such employment in like manner as if such driver had been duly licensed.

Particulars
of license
to be registered
and copy given
on payment
of fee.

24. The particulars of every license which shall be granted under the provisions of this Act shall be entered in books to be kept for that purpose at the office of the Registering Officer ; and every person applying shall, at all reasonable times, be furnished with a certified copy of such particulars on payment of a fee of eight annas.

CHAPTER V.

DRIVER'S TICKET.

Driver to wear
metal ticket.

25. (1) The Registering Officer shall, at the time of granting a license to any driver of a hackney-carriage, deliver a metal ticket marked or engraved with a number corresponding with the number of his license.

Driver to
wear ticket
exposed to
view.

(2) Every driver to whom such ticket is delivered shall, at all times while acting as driver or while attending before any Magistrate, carry such ticket exposed to view.

Penalty for
omitting to
wear ticket.

(3) In case any such driver shall omit to wear such ticket exposed to view while acting as driver or attending before a Magistrate, he shall be liable to a fine not exceeding ten rupees, and in default of payment of fine to imprisonment for a period not exceeding one month.

Driver entitled
to new ticket
on loss or
obliteration of

26. Whenever the number on any ticket shall, during the term of the license, become indistinct or obliterated, and also whenever any ticket shall have been lost or stolen, the person to whom the license relating to any such ticket shall have been granted shall deliver such ticket (if he shall have

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the same in his possession), and shall produce such license to the registering officer, and such person shall then be entitled to have a new ticket delivered to him upon payment of eight annas :

Provided that if any ticket which shall have been proved to have been lost or stolen shall afterwards be recovered, the same shall forthwith be delivered to the Registering Officer ; and every person in or into whose possession any such ticket as last aforesaid shall be or come who shall refuse or neglect for three days to deliver the same to the said Registering Officer, and also every person licensed under the authority of this Act who shall use or wear the ticket granted to him after the writing thereon shall have become indistinct or obliterated shall, for every such offence, be liable to a fine not exceeding ten rupees, and in default of payment of fine to imprisonment for a period not exceeding seven days.

Penalty for using obliterated ticket or for failing to deliver lost ticket when recovered.

27. (1) Upon the expiration or other determination of any license granted to a driver under this Act, such driver shall deliver such license and the ticket relating thereto to the Registering Officer.

License and ticket to be delivered on expiry.

(2) Every driver who shall neglect for three days to deliver such expired license and ticket to the said Officer, and also every person who shall use, wear or detain any such expired license or ticket or other than such as shall have been delivered to him under the provisions of this Act, and every person to whom any ticket shall have been delivered as aforesaid who shall lend such ticket to any other person, and every person who shall wear or use the ticket of any other person shall, for every such offence, be liable to a fine not exceeding twenty rupees, and in default of payment of fine to imprisonment for a period not exceeding one month.

Penalty for neglecting to deliver such license and ticket.

28. (1) Every person who shall for the purpose of deception use or wear any ticket resembling or intended to resemble any ticket granted under the authority of this Act, shall, for every such offence, be liable to a fine not exceeding one hundred rupees, and in default of payment of fine to imprisonment for a period not exceeding one month.

Penalty for using or wearing counterfeit ticket.

(2) It shall be lawful for any police-officer or any person employed for the purposes of this Act by the Registering Officer to seize and take away any such expired or counterfeit ticket wheresoever the same may be found, and to deliver the same to the Registering Officer.

Police may seize counterfeit ticket.

29. (1) Whenever any driver shall be summoned to appear before any Magistrate to answer any charge preferred against him under this Act, he shall carry with him his license and produce the same if required so to do ; and

Penalty for failing to produce license before Magistrate.

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any driver who shall on such requisition fail to produce such license shall, for every such offence, be liable to a fine not exceeding five rupees, and in default of payment of fine to imprisonment for a period not exceeding seven days.

Conviction of
any charge to
be endorsed on
driver's
license.
Revocation or
suspension of
driver's
license on
conviction.

(2) It shall be lawful for any Magistrate, on conviction of any driver of any offence under this Act, to endorse on such license the nature of the offence, the date of the conviction and the amount of the penalty inflicted.

30. (1) It shall be lawful for any Magistrate before whom any driver shall be convicted of any offence, whether under this Act or under any other Act, to revoke the license of such driver or to suspend the same for such time as the Magistrate shall think proper, and for that purpose to require the driver or any other person in whose possession such license and the ticket thereto belonging shall then be, to deliver up the same.

Penalty for
refusal or
neglect to
deliver up
license.

(2) Every driver or other person who being so required shall refuse or neglect to deliver up such license and such ticket, shall be liable for every such offence to a fine not exceeding twenty rupees, and in default of payment of fine to imprisonment for a period not exceeding fourteen days.

Magistrate
to send
surrendered
license to
Registering
Officer.
Cancellation or
re-delivery.

(3) The Magistrate shall forward every license and every ticket so delivered up to him to the Registering Officer, together with a memorandum of his sentence in the case.

(4) The Registering Officer shall enter the fact of such sentence in the register referred to in section 9, and shall either suspend or cancel such license according to the sentence of the Magistrate; and if it has been suspended, the Registering Officer shall, on application at the end of the time of suspension, re-deliver such license or ticket to the person to whom it was granted.

CHAPTER VI.

FARES, HIRING AND PLYING FOR HIRE.

Fares to be
paid for
hackney-
carriages.

31. (1) The owner or driver of every hackney-carriage shall be entitled to demand and take for the hire of such carriage the fares specified in the first Schedule to this Act:

Proviso.

Provided that when the owner or driver of any hackney-carriage, to be paid a fare calculated according to the distance, shall be required by the hirer thereof to stop such carriage for any time or times amounting altogether to not less than fifteen minutes, it shall be lawful for the owner or driver to demand and receive from the hirer so requiring him to stop a further sum of

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one-fourth of the rate for the first hour, for every fifteen minutes that he shall have been so stopped.

(2) No owner or driver shall demand or receive over and above the said fare any sum for back fare for the return of the carriage from the place at which it was discharged :

Back fare not to be demanded.

Provided that any contract entered into to accept a fare lower than the fare so fixed shall be binding.

Contract for lower fares to be binding.

32. (1) The owner of every registered hackney-carriage shall put up and at all times keep distinctly printed, painted or marked in the English, Urdu and Bengali languages, [1] in such manner and in such position as shall be directed by the Registering Officer, on the inside of such carriage, the amount of fare according to distance and time which may legally be demanded and taken from the hirer of such carriage as a hackney-carriage.

Owner to keep list of fares inside carriage.

(2) Every such owner who shall fail to comply with the provision of this section shall, for each offence, be liable on conviction to a fine not exceeding ten rupees.

Penalty for breach.

33. (1) The driver of every registered hackney-carriage shall (unless he has a reasonable excuse to be allowed by the Magistrate before whom the matter shall be brought in question) drive such carriage to any place to which he shall be required by the hirer thereof to drive the same, not exceeding six miles from the place where the same shall have been hired.

Distance driver bound to drive.

(2) When any such carriage shall have been hired by time, the driver thereof shall drive the same at a rate not less than four miles within one hour; and if the driver of such carriage shall be required to drive more than four miles within one hour, then in every such case the driver thereof shall be entitled to demand, in addition to the fare regulated by time in the first schedule to this Act for every mile or any part thereof exceeding four miles, the fare regulated by distance as set forth in that schedule.

Speed when hired by time.

(3) Any such driver failing without reasonable excuse to comply with the provisions of this section shall be liable to a penalty not exceeding ten rupees, and in default of payment of fine to imprisonment for a period not exceeding seven days.

Penalty for failure.

34. The driver of every registered hackney-carriage shall carry in or upon such carriage a quantity of luggage not exceeding two maunds, together with

Quantity of luggage to be carried free of charge.

[1] In places beyond "Calcutta," as defined in s. 3 (1), the words "or such other languages as the Local Government may, by notification in the Calcutta Gazette, prescribe," must be read in here—see s. 61 (2), *post*, p. 24.

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one additional maund for every person below four carried in the carriage without any additional charge.

Penalty for
refusing to let
a carriage for
hire.

35. Any owner, person in charge of any registered hackney-carriage or driver who shall without sufficient reason refuse to let such carriage for hire, shall be liable for every such offence to a fine not exceeding fifty rupees, and to pay such further sum by way of compensation to the party complaining as to the Magistrate who shall hear the case may seem just; and such further sum shall, in default of immediate payment, be levied in the mode provided for the levying of fines under this Act.

Penalty on
driver for
certain
offences.

36. Every driver of a hackney-carriage who shall—

- (a) be drunk during his employment;
- (b) make use of insulting or abusive language, or gesture;
- (c) stand (elsewhere than at some stand or other place appointed for the purpose) or loiter for the purpose of being hired in or upon any public street, road, or place;
- (d) suffer his carriage to stand for hire across any street or alongside of any other carriage;
- (e) refuse to give way (when he reasonably and conveniently may do so) to any other carriage;
- (f) wilfully obstruct or hinder the driver of any other carriage in taking up or setting down any person into or from such other carriage;
- (g) wrongfully prevent or endeavour to prevent the driver of any other carriage from being hired;
- (h) demand or take more than the proper fare to which he is legally entitled;
- (i) refuse to admit and carry in his carriage the number of persons painted or marked on the registered plate affixed to such carriage or specified in the register;
- (j) carry more than such number of passengers;
- (k) refuse to carry by his carriage a reasonable quantity of luggage;
- (l) before he has been discharged by the hirer, (being hired by time) desert from the hiring;
- (m) ply for hire with any carriage or horse which shall be at the time unfit for public use,

shall be liable to a fine not exceeding ten rupees, and in default of payment of fine to imprisonment for a period not exceeding seven days.

Penalty on

37. Any driver employed as such by the owner of any registered hackney-

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carriage who shall, without sufficient excuse, refuse or neglect to attend at the premises of such owner for the purposes of driving any such carriage, whereby such owner is prevented from letting out the same, shall, on complaint by such owner, be liable for each offence to a fine not exceeding ten rupees, (which or any part of which may, by order of the Magistrate, be paid to the owner as compensation) and in default of payment of fine to imprisonment for a period not exceeding seven days.

driver for refusing to attend at premises of owner.

38. (1) When a complaint is made before a Magistrate against the driver of a registered hackney-carriage for any offence committed by him against the provisions of this Act, such Magistrate may forthwith summon the owner of the carriage personally to appear and to produce the driver of such carriage to answer the complaint.

Owner may be summoned to appear before Magistrate and to produce driver.

(2) If such owner, being duly summoned, shall, without a reasonable excuse, neglect or refuse personally to appear or to produce the driver according to such summons, he shall be liable to a fine not exceeding fifty rupees, and so from time to time as often as he shall be so summoned, until such driver shall be produced by him :

Penalty for neglecting to appear or to produce driver.

Provided that if such owner shall, without a reasonable excuse, neglect or refuse to appear and produce such driver on the second or any subsequent summons requiring him so to do, it shall be lawful for the Magistrate to proceed to hear and determine the complaint in the absence of the owner and driver, or either of them.

Magistrate to hear and determine complaint on failure to appear.

39. (1) If any person, who shall have hired a registered hackney-carriage shall refuse to pay to the owner or driver thereof on demand the fare payable under this Act, it shall be lawful for the Magistrate to order payment of such fare and also of such compensation for loss of time as shall seem reasonable and in default of payment such fare and compensation may be recovered in the same way as a fine.

Procedure on refusal to pay fare.

(2) If any person who shall have used any such carriage shall attempt to evade payment of the fare or any portion of the same which he may be deemed liable to pay, he shall be liable to a fine not exceeding fifty rupees, or to imprisonment for a period not exceeding one month, in addition to the payment of such fare and compensation as hereinbefore mentioned.

Penalty for fraudulent evasion.

40. (?) Any person who shall maliciously or knowingly tear, destroy, deface, obliterate or remove any carriage-plate, table of fares or driver's ticket which shall have been granted under the provisions of this Act, shall be liable for every such offence to a fine not exceeding twenty rupees, and

Penalty for destroying carriage-plate, etc.

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(Chapter VI.—Fares, Hiring and Plying for Hire.—Secs. 41-45.)

in default of payment of fine to imprisonment for a period not exceeding fourteen days.

Award of fine
to owner of
carriage-plate,

(2) Any portion of the fine may be awarded to the person to whom such carriage-plate, table of fares or driver's ticket shall belong.

Penalty for
wilful injury
to carriage,

41. Any person using a registered hackney-carriage who shall wilfully injure the same shall be liable to a fine not exceeding twenty rupees, and in default of payment of fine to imprisonment for a period not exceeding fourteen days; and shall also pay to the owner of the carriage such compensation for the injury as the Magistrate may direct.

Disputes how
to be settled,

42. In case of any dispute between the hirer and driver of any registered hackney-carriage, the hirer may, if any Magistrate be then sitting, require the driver to drive to the Court of such Magistrate, or, if no Magistrate be then sitting, to the Registering Officer; and if any driver shall refuse to obey such requisition, it shall be lawful for the hirer to give such driver into the custody of the nearest police-officer; such police-officer shall thereupon take the driver and the hirer together with the carriage and horse to such Court or Registering Officer and the then sitting Magistrate or Registering Officer shall in either of the cases aforesaid hear and determine the dispute in a summary way.

Table of
distances
signed by
Registering
conclusive.

43. In the case of disputes as to the fare to be calculated according to the distance, any table or book signed by the Registering Officer shall, on proof of such signature, be taken to be conclusive evidence of the distances therein stated.

Hackney-
carriage may
ply for hire as
stage-carriage.

44. (1) It shall be lawful for any registered hackney-carriage to ply for hire as a stage-carriage.

Fares for
stage-carriages
how to be
determined.

(2) The owner or driver of a carriage so plying for hire or hired as a stage-carriage, shall not be subject to the provisions of section 31 of this Act, but shall be entitled to demand and take for the hire of such carriage such fares as shall be agreed upon between him and the several hirers respectively.

Hackney-
carriages plying
as stage-
carriages sub-
ject to
provisions of
Act.
Hacks to be
appointed.

(3) All the other provisions of this Act shall be applicable to the case of a hackney-carriage plying as a stage-carriage, so far as the same shall be applicable in each particular instance.

45. (1) The Registering Officer shall from time to time appoint one or more stands in Calcutta [1] for hackney-carriages registered under this

[1] As to the meaning of "Calcutta", see ss. 3 (1) and 4, *ante*, p. 7. As to the substitution of the names of other places, see s. 61 (2), *post*, p. 24.

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(Chapter VII.—Palanquins.—Secs. 46-49.)

Act, and may also assign for the use of such carriages, as public stands, any coach-houses, stables or sheds, or other suitable places.

(2) Every public stand so appointed or assigned shall have a board affixed in a conspicuous place in front thereof, containing a notice in the English, Urdu and Bengali languages [1] that the stand is a public stand under this Act.

Stands to have boards affixed in front of them.

CHAPTER VII.

PALANQUINS.

46. (1) Every palanquin plying for hire in Calcutta [2] shall be annually registered by the Officer appointed for registering hackney-carriages at the time and in the manner hereinbefore provided with respect to the registration of hackney-carriages.

Palanquins to be registered annually.

(2) Upon each registration a fee of eight annas shall be paid :

Fee for registration.

Provided that the Registering Officer may refuse to register any palanquin or may cancel the registration thereof whenever it may appear to him to be unserviceable or unfit for public use.

Refusal to register palanquins.

47. (1) The following particulars shall be entered in the register, namely :—

Particulars of register.

(a) the number of the palanquin ;

(b) the name and residence of the owner.

(2) Every change of ownership or residence shall be notified to the Registering Officer, subject to the same provisions and penalties in default as are provided in the case of the owners of hackney-carriages.

Change of ownership or residence to be notified.

48. (1) The owner of every registered palanquin shall cause the registered number thereof to be painted in the English and Bengali figures on a conspicuous part thereof.

Registered number to be painted on palanquin.

(2) The owner of any palanquin plying for hire without being registered or having the number affixed thereto as aforesaid, shall be liable to a fine not exceeding ten rupees.

Penalty for neglecting to register palanquin.

(3) The person in whose name a palanquin is for the time being registered shall be deemed the owner thereof for the purposes of this Act.

" Owner " of palanquin.

49. The owner of every palanquin shall put up and at all times keep distinctly printed, painted or marked in the English, Urdu and Bengali

Owner to keep list of fares inside palanquin.

[1] In places beyond "Calcutta" as defined in s. 3 (1), the words "or such other languages as the Local Government may, by notification in the Calcutta Gazette, prescribe" must be read in here—see s. 61 (2), *post*, p. 24.

[2] As to the meaning of "Calcutta", see ss. 3 (1) and 4, *ante*, p. 7. As to the substitution of the names of other places, see s. 61 (2), *post*, p. 24.

THE CALCUTTA HACKNEY-CARRIAGE ACT, 1891. [Ben. Act 2

(Chapter VII.—Palanquins.—Secs. 50-52.)

languages, [1] in such manner and in such position as shall be directed by the Registering Officer, on the inside of such palanquin the amount of fare according to distance and time which may be legally demanded and taken from the hirer of such palanquin.

Fares to be paid for palanquins.

50. (1) The owner or person in charge of every palanquin shall be entitled to demand and take for the hire of such palanquin the fares specified in the second schedule to this Act :

proviso.

Provided that when the owner or person in charge of any palanquin to be paid a fare calculated according to the distance shall be required by the hirer thereof to stop such palanquin for fifteen minutes, or for any longer time, it shall be lawful for the owner or person in charge to demand and receive from the hirer so requiring him to stop, a further sum of one-fourth of the rate for the first hour, for every fifteen minutes that he shall have been so stopped.

Back fare not to be demanded.

(2) No owner or person in charge of a palanquin shall demand or receive over and above the said fare any sum for back hire for the return of the palanquin from the place at which it was discharged :

Contract for lower fares to be binding.

Provided that any contract entered into to accept a fare lower than the fare so fixed shall be binding.

Bearers of palanquins to have licenses.

51. (1) It shall not be lawful for any person to act as the bearer of a registered palanquin, unless such person shall have obtained a license from the Registering Officer in the manner hereinbefore prescribed for drivers of hackney-carriages.

Provisions relating to hackney-carriages applicable to palanquins.

(2) All the provisions of this Act in any way relating to the taking out, granting, renewing, producing or using the licenses, or to the issuing, granting, wearing or using tickets granted to drivers of hackney-carriages, shall be applicable in like manner to the bearers of palanquins.

Fee for license.

(3) For every license to act as a palanquin bearer granted under this Act there shall be paid a fee of eight annas.

Distance bearers bound to carry palanquins.

52. (1) The bearers of every palanquin registered under this Act shall (unless they have a reasonable excuse to be allowed by the Magistrate before whom the matter shall be brought in question) carry such palanquin to any place to which they shall be required by the hirer thereof to carry the same, not exceeding five miles from the place where the same shall have been hired.

Speed fixed by time.

(2) If such palanquin shall have been hired by time, the bearers thereof

[1] In places beyond "Calcutta," as defined in s. 3 (1), the words "or such other languages as the Local Government may by notification in the Calcutta Gazette prescribe" must be read in here—see s. 61 (2), *post*, p. 24.

of 1891.] THE CALCUTTA HACKNEY-CARRIAGE ACT, 1891.

(Chapter VIII.—Bye-laws.—Sec. 53.)

may be required to carry it at any rate not exceeding two and-a-half miles within one hour.

(3) Whenever the bearers of such palanquin shall be required to carry it more than two and-a-half miles within one hour, they shall be entitled to demand, in addition to the fare regulated by time in the second schedule to this Act, for every mile or any part thereof exceeding two and-a-half miles, the fare regulated by distance as set forth in the said schedule.

Fare by distance may be demanded in addition to fare by time

(4) All and every of the provisions of this Act as to offences committed by or against the owners and drivers of hackney-carriages and the penalties in respect of the same and recovery thereof, and all the remedies by or against hirers, owners or drivers of hackney-carriages, and all and several of the remedies given to hirers, owners and drivers of hackney-carriages, except the provisions contained in section 38, shall be applicable, so far as the same may reasonably be applied, to the owners and bearers of palanquins.

Provisions regarding owners and drivers of hackney-carriages applicable to owners and bearers of palanquins.

CHAPTER VIII.

BYE-LAWS.

53. (1) The Commissioners in meeting may from time to time make bye-laws not inconsistent with the provisions of this Act with regard to—

Commissioners in meeting may make bye-laws.

- (a) the examination and qualification of drivers, and the conditions under which they may be employed ;
- (b) the description of horses, harness, and other things to be used in hackney-carriages, the dimensions of such carriages, and the condition in which such carriages, and the horses, harness and other things used therewith shall be kept ;
- (c) the inspection of the premises on which any such carriages, horses, harness and other things are kept ;
- (d) the protection of weak, lame and sickly horses ;
- (e) the publication of a table of distances, and generally for carrying out the purposes of this Act.

H. L.

(2) The Commissioners in meeting may from time to time repeal, alter or add to any bye-law made under this section.

Bye-laws may be repealed or altered.

(3) No bye-law, and no repeal or alteration of, or addition to, any bye-law, shall have effect until the same has been confirmed by the Local Government.

Bye-laws when to take effect

(4) Every bye-law, and every repeal or alteration of, or addition to, any bye-law when confirmed, shall be published in the Calcutta Gazette.

Bye-laws to be published in Gazette.

THE CALCUTTA HACKNEY-CARRIAGE ACT, 1891. [Ben. Act 2

(Chapter VIII.—Bye-laws.—Chapter IX.—Prosecutions.—Secs. 54-58.)

Penalty for
infringement
of bye-laws.

54. Whoever infringes any bye-law made and confirmed shall be liable to a fine not exceeding twenty rupees.

CHAPTER IX.

PROSECUTIONS.

Prosecutions
to be insti-
tuted before
Magistrate.

55. (1) Every prosecution under this Act may be instituted before any Magistrate having jurisdiction who may summon the persons charged to appear at a time and place to be mentioned in the summons; and if such person do not appear, the Magistrate may, upon proof of service of the summons if no sufficient cause shall be shown for the non-appearance of the person charged, proceed to hear and determine the case in his absence.

Procedure in
case of
prosecutions.

(2) If such person do appear, then the procedure laid down in the Code of Criminal Procedure of 1882,[1] from section 242 to section 248 shall be 10 of 1892. followed.

Fines how to
be levied.

(3) All fines imposed by a Magistrate under this Act shall be levied under the provisions of sections 386, 387, 388 and 389 of the said Code.[1]

Liability to
fine when in-
curred.

56. (1) No person shall be liable to any fine under this Act for any offence cognizable by a Magistrate, unless the complaint respecting such offence shall have been made within three months next after the commission of such offence.

(2) The omission to register any hackney-carriage or palanquin or to take out a license shall be deemed to be a continuing offence.

 sioners to be
paid for.

57. (1) If through any act, neglect or default on account whereof any person shall have been fined under this Act, any damage to the property of the Commissioners shall have been committed by such person, he shall be liable to make good such damage as well as to pay such fine.

Amount of
damage to be
determined
by Magis-
trate.

(2) The amount of such damage shall be determined by the Magistrate by whom such person has been fined, and in default of payment of the amount of such damage on demand, the same may be levied in the same manner as a fine.

Compensation
for ground-
less prosecu-
tion.

58. In any case in which a Magistrate is satisfied that a complainant had no reasonable ground for instituting a prosecution, it shall be lawful for such Magistrate to direct the complainant to pay to the accused such compensation not exceeding fifty rupees as he thinks fit; and the sum so awarded shall be recoverable as if it were a fine.

[1] Act 10 of 1882 has been repealed and re-enacted by the Code of Criminal Procedure, 1898 (Act 5 of 1898), and these references should now be taken to be made to the corresponding sections of that Code—see s. 3 (1) thereof, in General Acts, 1891-98, Ed. 1899, p. 382.

of 1891.] THE CALCUTTA HACKNEY-CARRIAGE ACT, 1891.

(Chapter X.—Miscellaneous.—Secs. 59, 60.)

CHAPTER X.

MISCELLANEOUS.

59. (1) The driver of every hackney-carriage and the bearers of every palanquin within the limits of this Act, wherein any property shall be left by any person shall, within twenty-four hours, carry such property, if not sooner claimed by the owner thereof, to the nearest police-station, and shall there deposit it with the Inspector or other officer on duty, and demand a receipt for it duly signed by the officer taking charge of the same. Property left in carriage or palanquin to be deposited in police-station.

(2) Any such driver or bearer making default herein shall be liable to a fine not exceeding fifty rupees, and in default of payment of fine to imprisonment for a period not exceeding one month. Penalty for neglecting to do so.

(3) The said officer shall forthwith enter in a book to be kept for that purpose— Police-officer to enter particulars in book, and grant receipts.

(a) the description of such property ;

(b) the name and address of the driver or bearer who shall bring such property ;

(c) the day and hour on which it shall be brought ;

(d) the name and address of the owner of the hackney-carriage or palanquin in which the property shall have been left and the registered number of such carriage or palanquin, and shall give the person a receipt for the same.

(4) The property so entered shall be returned to the person who shall prove to the satisfaction of the Commissioner of Police that the same belonged to him ; such person previously paying all expenses incurred, together with such reasonable sum to the driver or bearers who brought the same as the said Commissioner shall award : Property to be returned to owner.

Provided always that if such property shall not be claimed by, and proved to belong to, some one within one year after the same shall have been deposited, the said Commissioner shall cause such property to be sold, or otherwise disposed of ; and the proceeds, after deducting the expenses, together with a reasonable sum to the driver or bearers, shall be applied in the same manner as fees and penalties received under this Act. When such property may be sold and how proceeds may be applied.

60. All fees and fines levied under this Act shall be credited in the first Fees and fines

✓ S. 61 (not, p. 24) does not extend to this reference.

HACKNEY-CARRIAGES AND PALANQUINS.

THE CALCUTTA HACKNEY-CARRIAGE ACT, 1891. [Ben. Act 2

(Chapter X.—Miscellaneous.—Sec. 61.)

how to be dealt with. instance to a fund to be called the "Hackney-carriage Fund," which shall be employed in carrying out the purposes of this Act, [1]

and in the event of one or more municipalities being included in Calcutta by virtue of a notification published under section 4, then such fund shall yearly be divided between the Calcutta Municipality and such other municipality or municipalities in such proportion as the Local Government may determine, each municipality employing the sum so appropriated to it to carrying out the purposes of this Act.

Appointment
of officers
when Act
extended
beyond
Calcutta.

61. (1) Whenever this Act shall be extended to any other town or place under section 1, the Local Government may appoint persons, either by name or by official designation, to perform the duties imposed, and exercise the powers conferred, by this Act on the Commissioners and the Chairman of the Commissioners.

Modifications
in Act when

(2) And in each town or place to which this Act may be extended, for the word "Calcutta" in sections 5, 45 and 46 shall be read the name of such town or place, and after the word "languages" in sections 32, sub-section (1), 45, sub-section (2) and 49 shall be read "or such other languages as the Local Government may by notification in the Calcutta Gazette prescribe," and for the words "41 of the Calcutta Municipal Consolidation Act, 1888," in section 5, sub-section (3), shall be read the words "46 of the Bengal Municipal Act, 1884."

Ben. Act 2 of
1896.
Ben. Act 3 of
1884.

[1] The expenses of any hospital established in Calcutta under the Bengal Contagious Diseases (Animals) Act, 1880 (Ben. Act 8 of 1880), are a first charge on the surplus of the fees levied on the registration of hackney-carriages under the present Act—see Ben. Act 8 of 1880, s. 6, in Vol. 1, p. 67.

HACKNEY-CARRIAGES AND PALANQUINS.

25

of 1891.] THE CALCUTTA HACKNEY-CARRIAGE ACT, 1891.

(First Schedule.—Second Schedule.)

FIRST SCHEDULE

(referred to in section 31).

RATES AND FARES TO BE PAID FOR HACKNEY-CARRIAGES.

Description of carriage.	FARE BY DISTANCE.		FARE BY TIME				
	For any distance within and not exceeding one mile.	For any distance exceeding one mile.	For any time within and not exceeding one hour.	For every hour or part of an hour beyond one hour.	For half a day or five hours.	For a whole day consisting of nine hours.	For every hour or part of an hour after the ninth hour.
First class.	8 annas.	At the rate of 6 annas or every mile and for any part of a mile over and above any number of miles completed.	1 rupee.	8 annas.	...	5 rupees.	6 annas.
Second ..	6 annas.	At the rate of 4 annas for every mile and for any part of a mile over and above any number of miles completed.	12 annas.	6 ..	2 rupees.	3 rupees and 8 annas.	6 annas.
Third ..	3 annas.	At the rate of 2 annas for every mile and for any part of a mile over and above any number of miles completed.	4 ..	For the second hour and for the third hour or for any part of either.	...	2 rupees.	3 annas.
				For every hour or part of an hour beyond the third hour.			
				4 annas.	3 annas.		

The above fares to be paid according to time, unless at the commencement of the hiring the hirer presses his intention of paying according to distance. In the case of a second class carriage, the hirer cannot avail himself of the half day, or whole day, rate unless at the time of hiring he engages the carriage for the half day or whole day as the case may be.

SECOND SCHEDULE

(referred to in section 50).

RATES AND FARES TO BE PAID FOR PALANQUINS.

FARE BY DISTANCE.		FARE BY TIME.			
For any distance within and not exceeding one mile.	For any distance exceeding one mile.	For any time within and not exceeding one hour.	For every hour or part of an hour beyond one hour.	For half a day or five hours.	For a whole day consisting of nine hours.
3 annas.	At the rate of 3 annas for every mile and for any part of a mile over and above any number of miles completed.	6 annas.	3 annas.	1 rupee.	1 rupee and 8 annas.

The above fares to be paid according to distance or time, at the option of the hirer, to be expressed at the commencement of the hiring; if not otherwise expressed, the fare to be paid according to time.

in Bengal Appendix I.

[1] List of places to which the Calcutta Hackney-carriage Act, 1891 (Ben. Act 2 of 1891), has been extended under section 1 thereof.

1	2	3	4	5
District.	Places.	Date of notification.	Year, Part and page of Calcutta Gazette in which published.	Date appointed by the notification for the Act taking effect.
Bankura	Bankura Municipality	6th October, 1899.	1899, Part I B, p. 229.	6th October, 1899.
Bankura	Bankura Municipality	3rd July, 1893	1893, Part I B, p. 133.	3rd July, 1893.
Birbhum	Suri Municipality, and the Railway feeder roads connecting it with Sinthia and Ahmedpur.	20th March, 1893.	1893, Part I B, p. 43.	No date appointed.
	Asansol Municipality	5th June, 1897	1897, Part I B, p. 147.	5th June, 1897.
Burdwan	Burdwan Municipality	13th January, 1893.	1893, Part I B, p. 9.	13th January, 1893.
	Raniganj Municipality	20th September, 1892.	1892, Part I B, p. 231.	20th September, 1892.
Champanan	Bettiah Municipality	13th September, 1901.	1901, Part I B, p. 160.	13th September, 1901.
Chittagong	Chittagong Municipality	6th October, 1899.	1899, Part I B, p. 229.	No date appointed.
	Cantonment of Cuttack	31st July, 1903	1903, Part I B, p. 177.	31st July, 1903.
Cuttack	Cuttack Municipality	2nd November, 1891.	1894, Part I B, p. 241.	2nd November, 1894.
Faridpur	Faridpur Municipality	18th December, 1899.	1899, Part I B, p. 229.	18th December, 1899.
Gaya	Gaya Municipality	16th April, 1892	1892, Part I B, p. 151.	16th April, 1892.
	Baidabati Municipality	6th February, 1893.	1893, Part I B, p. 21.	No date appointed.
	Bhadreswar Municipality	20th March, 1893.	1893, Part I B, p. 43.	
	Serampore Municipality	6th February, 1893.	1893, Part I B, p. 21.	
	Utterpara Municipality	21st February, 1896.	1896, Part I B, p. 37.	21st February, 1896.
Jessore	Kotchandpur Municipality	17th June, 1893	1893, Part I B, p. 149.	17th June, 1893.
Khulna	Khulna Municipality	24th November, 1899.	1899, Part I B, p. 312.	24th November, 1899.
Midnapore	Midnapore Municipality	19th March, 1897.	1897, Part I B, p. 75.	19th March, 1897.
Monghyr	Monghyr Municipality	5th June, 1893	1893, Part I B, p. 95.	No date appointed.
Muzaffarpur	Muzaffarpur Municipality	17th June, 1892	1892, Part I B, p. 185.	17th June, 1892.
	Murtigaohha Municipality	23rd July, 1904	1904, Part I B, p. 150.	23rd July, 1904.
Mymensingh	Nadhabad Municipality	10th July, 1893	1893, Part I B, p. 117.	10th July, 1893.
	Tanrail Municipality	6th May, 1902	1902, Part I B, p. 244.	6th May, 1902.
Nadia	Krishnagar and the roads from Krishnagar to Bagula and from Krishnagar to Santipur up to the limit of the Santipur Municipality.	12th June, 1893	1893, Part I B, p. 98.	12th June, 1893.
	Dinapur Cantonment and Khagoul town within specified boundaries.	24th April, 1893	1893, Part I B, p. 68.	24th April, 1893.
Patna	Patna Municipality	25th April, 1892	1892, Part I B, p. 187.	25th April, 1892.
Rajshahi	Rampur Baidia Municipality	3rd July, 1893.	1893, Part I B, p. 117.	3rd July, 1893.
Saran	Chapra Municipality	31st August, 1892.	1892, Part I B, p. 321.	31st August, 1892.
	Arrah Municipality		1892, Part I B, p. 225.	13th November, 1892.
	Buxar Municipality	12th November, 1892.	1892, Part I B, p. 353.	
Shahabad	Sasaram Municipality		1892, Part I B, p. 256.	

[1] This list has been revised up to the 9th August, 1904.

in Bengal Appendix I—(concl'd.)

List of places to which the Calcutta Hackney-carriage Act, 1891 (Ben. Act 2 of 1891), has been extended under section 1 thereof—(concl'd.)

1	2	3	4	5
District.	Places.	Date of notification.	Year, Part and page of Calcutta Gazette in which published.	Date appointed by the notification for the Act taking effect.
Tippera	Cowan Municipality	20th April, 1901	1901, Part I B, p. 76.	20th April, 1901.
	Barasat Municipality	20th April, 1899	1899, Part I B, p. 76.	20th April, 1899.
	Barrackpore Cantonment	23rd September, 1893.	1893, Part I B, p. 163.	23rd September, 1893.
24 Parganas	Naihati Municipality	6th October, 1900.	1900, Part I B, p. 307.	6th October, 1900.
	North Barrackpore Municipality	13th January, 1901.	1901, Part I B, p. 6.	13th January, 1901.

Appendix II.

in Bengal

List of places (other than those mentioned in Appendix I, ante, pages 26, 27) to which Bengal Act 5 of 1866 (Hackney-Carriages) was extended under section 54 thereof, and in which the Calcutta Hackney-carriage Act, 1891 (Ben. Act 2 of 1891), is in force by virtue of section 2 (2) of the latter Act.

1	2	3	4	5
District.	Places.	Date of notification.	Year, Part and page of Calcutta Gazette in which published.	Date appointed by the notification for the Act taking effect.
Howrah	Town of Howrah	30th April, 1866.	1866, p. 1044	...
Murahidabad	Berhampur Municipality	25th February, 1887.	1887, Part I B, p. 64.	1st April, 1887.
Nadia	Ranaghat Municipality	11th September, 1880.	1880, Part I, p. 331.	1st October, 1886.
	Santipur Municipality and the road from Ranaghat to Santipur.			
Bangur	Bangur Municipality	14th May, 1880	1880, Part I B, p. 127.	1st June, 1880.
	Dum-Dum Cantonment, and that portion of the Calcutta and Jessore Road which lies between the said cantonment and the town of Calcutta.	2nd December, 1880.	1880, Part I, p. 1090.	1st January, 1881.
	The portion of the Sonarpur feeder road which lies between the Sonarpur Railway station and the limits of the Rajpur Municipality.	5th February, 1881.	1881, Part I, p. 186.	1st April, 1881.
24 Parganas	South Suburban Municipality	24th April, 1883.	1883, Part I, p. 337.	1st June, 1883.
	Town of Baruipur (within municipal limits).	30th September, 1879.	1879, Part I, p. 964.	1st January, 1880.
	Town of Rajpur (within municipal limits).	24th April, 1880.	1880, Part I, p. 313.	1st July, 1880.

See Bengal V

HINDU WIDOWS.^[1]

THE BENGAL SATI REGULATION, 1829^[2]

(REGULATION 17 OF 1829).

[4th December, 1829.]

A Regulation for declaring the practice of sati or of burning or burying alive the widows of Hindus illegal and punishable by the Criminal Courts.

Preamble.

1. The practice of sati or of burning or burying alive the widows of Hindus is revolting to the feelings of human nature; it is nowhere enjoined by the religion of the Hindus as an imperative duty; on the contrary, a life of purity and retirement on the part of the widow is more especially and preferably inculcated, and by a vast majority of that people throughout India the practice is not kept up nor observed: in some extensive districts it does not exist; in those in which it has been most frequent it is notorious that in many instances acts of atrocity have been perpetrated which have been shocking to the Hindus themselves and in their eyes unlawful and wicked.

The measures hitherto adopted to discourage and prevent such acts have failed of success, and the Governor General in Council is deeply impressed with the conviction that the abuses in question cannot be effectually put an end to without abolishing the practice altogether.

[1] As to the re-marriage of Hindu widows, *see* the Hindu Widows Re-marriage Act, 1856 (15 of 1856), in General Acts, 1834-67, Ed. 1898, p. 111.

As to non-forfeiture of rights or property by loss of caste, *see* the Caste Disabilities Removal Act, 1850 (21 of 1850), *ib.*, p. 72.

[2] SHORT TITLE.—This short title was given by the Amending Act, 1897 (5 of 1897), printed in Vol. I, p. 15.

LOCAL EXTENT.—This Regulation was passed for the whole of Bengal—*see* the clause at the end of s. 1, on p. 29, *post*. It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed in the General Acts, 1868-76, Ed. 1898, p. 46), to be in force throughout Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the following Scheduled Districts, namely—

~~West Jalpaiguri and the Western Dooars, in the Jalpaiguri District—*see* Vol. V, Part V B (a); and the Hazaribagh, Ranchi, Palamau and Manbhum Districts, and Pargana Dhalbhum, the Kolhan and the Porabhat Estate, in the Singhbhum District, in the Chota Nagpur Division—*see* Vol. V, Part V B (b).~~

Bengal
The Regulation is in force in the following de-regulationized tracts, namely:—

the Angul District—*see* Vol. V, Part VI B (a); and
the Sonthal Parganas—*see* Vol. V, Part VI B (c).

but its application in the other de-regulationized tracts in Bengal, namely the Chittagong Hill tracts, is barred by the Chittagong Hill tracts Regulation, 1900 (1 of 1900), s. 4 (3), printed in Vol. I, p. 262.

[Reg. 17 of 1829.] THE BENGAL SATI REGULATION, 1829.

(Secs. 2, 3.)

Actuated by these considerations, the Governor General in Council, without intending to depart from one of the first and most important principles of the system of British Government in India, that all classes of the people be secure in the observance of their religious usages, so long as that system can be adhered to without violation of the paramount dictates of justice and humanity, has deemed it right to establish the following rules, which are hereby enacted to be in force from the time of their promulgation throughout the territories immediately subject to the Presidency of Fort William.

2. The practice of sati or burning or burying alive the widows of Hindu, is hereby declared illegal and punishable by the Criminal Courts.

Sati declared illegal and punishable.

3. *First.*—All zamindars, talukdars or other proprietors of land, whether malguzari or lakhiraj, all sadar farmers and under-renters of land of every description, all dependent talukdars, all naibs and other local agents, all Native officers employed in the collection of the revenue and rents of lands on the part of Government or the Court of Wards, and all mandals or other headmen of villages, are hereby declared especially accountable for the immediate communication to the officers of the nearest police-station of any intended sacrifice of the nature described in the foregoing section; and any zamindar or other description of persons above noticed, to whom such responsibility is declared to attach, who may be convicted of wilfully neglecting or delaying to furnish the information above required, shall be liable to be fined by the Magistrate or Joint Magistrate in any sum not exceeding two hundred rupees, and in default of payment to be confined for any period of imprisonment not exceeding six months.

Zamindars, etc., responsible for immediate communication to police of intended sacrifice.

Penalty in case of neglect.

Second.—Immediately on receiving intelligence that the sacrifice declared illegal by this Regulation is likely to occur, the police-daroga shall either repair in person to the spot, or depute his muharrir or jamadar, accompanied by one or more barkandazes of the Hindu religion, and it shall be the duty of the police-officers to announce to the persons assembled for the performance of the ceremony that it is illegal, and to endeavour to prevail on them to disperse, explaining to them that, in the event of their persisting in it, they will involve themselves in a crime and become subject to punishment by the Criminal Courts.

Police how to act on receiving intelligence of intended sacrifice;

Should the parties assembled proceed in defiance of these remonstrances to carry the ceremony into effect, it shall be the duty of the police-officers to use all lawful means in their power to prevent the sacrifice from taking place, and to apprehend the principal persons aiding and abetting in the performance of it; and in the event of the police-officers being unable to apprehend them

THE BENGAL SATI REGULATION, 1829. [Reg. 17 of 1829.]

(Sec.

they shall endeavour to ascertain their names and places of abode, and shall immediately communicate the whole of the particulars to the Magistrate or Joint Magistrate for his orders.

How to act
when intelligence
of
sacrifice does
not reach
them until
after it has
taken place.

Third.—Should intelligence of a sacrifice declared illegal by this Regulation not reach the police-officers until after it shall have actually taken place, or should the sacrifice have been carried to effect before their arrival at the spot, they will nevertheless institute a full inquiry into the circumstances of the case, in like manner as on all other occasions of unnatural death, and report them for the information and orders of the Magistrate or Joint Magistrate to whom they may be subordinate.

4, 5. [*Trial of persons concerned in the sacrifice ; sentence of death by Court of Nizamat Addl.t.*] Rep. by Act 17 of 1862.

HOWRAH.

THE HOWRAH OFFENCES ACT, 1857

(ACT 21 OF 1857).

CONTENTS. [1]

PREAMBLE.

SECTION.

1. Cases under this Act by whom to be tried.
2. Possession of stolen property by one who fails to account satisfactorily for the possession.
Power to summon persons declared to have had possession of stolen property within the jurisdiction of the Magistrate.
Penalty if such possession fraudulent
3. Apprehension and punishment of reputed thieves, etc.
- 4-6. [*Repealed.*]
7. Brothels.
8. 9. [*Repealed.*]
10. Penalty for owning or keeping, or having charge of, a gaming-house, etc.
11. Penalty for being found playing in a gaming-house.
12. Magistrate may authorise certain police-officers to enter a gaming-house for the purpose of search and seizure.
13. On conviction for keeping a gaming-house, instruments of gaming to be destroyed, etc.
14. Portion of fine may be paid to inform
15. Gambling in the streets.
16. 17. [*Repealed.*]
18. Manufacture or possession of gunpowder
19. Licenses by Magistrate for sale and deposit of gunpowder, etc.
20. Penalty for drunkenness, or riotous or indecent behaviour in public.
21. Penalty for committing nuisance in
22. Beggars.
23. Penalty for the following offences in public streets, etc. :—
furious or negligent driving or riding ;
letting loose horses, ferocious dogs, etc.
leaving cart, etc., without control ;
obstruction to passengers by fastening animals ;
ill-treating animals ;
lighting fires and discharging guns, fire-works, etc.
- 24-50. [*Repealed.*]

[1] This table has been newly added.

THE HOWRAH OFFENCES ACT, 1857.

[Act 21.]

(Sec. 1.)

SECTION.

51. Police-officer may arrest without warrant on view of offence.
52. Police-officer may take into custody, without warrant, persons charged with aggravated assault recently committed.
53. Persons taken into custody by a police-officer, without warrant, may be detained in police-office until brought before Magistrate or bailed.
54. Procedure on information or complaint laid before the Magistrate of an offence against this Act.
55. [Repealed.]
56. Jurisdiction.
57. Application of fines.
58. [Repealed.]
59. Interpretation.

SCHEDULE.

THE HOWRAH OFFENCES ACT, 1857 [2]

(ACT 21 OF 1857).

[10th July, 1857.]

An Act to make better provision for the order and good government * * * [3] of the station of Howrah.

Preamble.

WHEREAS Acts have been passed for regulating the police and for the conservancy and improvement of the town of Calcutta and of the other presidency-towns; and whereas large portions of * * * [4] the station of Howrah are not less populous than parts of the said town, and it will conduce to the order and good government of the said * * * [5] station that some of the provisions of the said Acts, with certain necessary modifications, should be extended to the said * * * [5] station; It is enacted as follows:—

Cases under this Act by

1. Whoever is charged with having committed any of the offences

[1] As to the recovery of past claims and charges in respect of the Howrah drainage scheme, see the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), ss. 14 to 19, in Vol. I, pp. 394 to 396.

As to the appointment and payment of the police in the Howrah and Suburban Municipal Police Act, 1884 (Ben. Act 4 of 1884), in Vol. IV of this Code.

For power to extend the Calcutta Municipal Act, 1899 (Ben. Act 3 of 1899), or any part thereof, to Howrah, see ss. 640 to 642 of that Act, in Vol. III of this Code.

[2] SHORT TITLE.—This short title was given by the Repeal and Amending Act, 1903 (1 of 1903), printed in Vol. I., p. 18.

LOCAL EXTENT.—This Act applies only to Howrah—see the title preamble.

REPRINT.—This Act has been reprinted (by the Legislative Department of the Government of Bengal) as modified by subsequent legislation up to the 1st January,

[3] The words "of the suburbs of Calcutta and", in the title Repealing Act, 1874 (16 of 1874), are omitted.

[4] The words "the suburbs of the said town of Calcutta and of", in the preamble, which were repealed by the same Act, are omitted.

[5] The words "suburbs and", in the preamble, which were repealed by the same Act, are omitted.

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THE HOWRAH OFFENCES ACT, 1857.

(Secs. 2, 3.)

mentioned in this Act, within the limits of the said * * [1] station, as described in the Schedule hereunto annexed, may be tried for any such offence by the Magistrate within whose jurisdiction the offence is alleged to have been committed ;

whom to be tried.

and, on conviction, may be sentenced by such Magistrate to the punishment hereinafter prescribed for the offence.

2. *Clause 1.*—Whoever has in his possession, or conveys in any manner, any thing which may be reasonably suspected of being stolen or fraudulently obtained, shall, if he fail to account satisfactorily how he came by the same, be liable to a penalty not exceeding one hundred rupees, or to imprisonment, with or without hard labour, for any term not exceeding three months.

Possession of stolen property by one who fails to account satisfactorily for the possession.

Clause 2.—If any person, charged with having or conveying any thing stolen or fraudulently obtained, shall declare that he received the same from some other person, or that he was employed as a carrier, agent or servant to convey the same for some other person,

Power to summon persons declared to have had possession of stolen property within the jurisdiction of the Magistrate.

the Magistrate may cause every such other person, and also, if necessary, every former or pretended purchaser or other person through whose possession the same shall have passed (provided that such other person shall be alleged to have had possession of the same within the jurisdiction of such Magistrate) to be brought before him and examined, and shall examine witnesses touching the same ;

and if it appear to such Magistrate that any person so brought before him had possession of such thing, and he has reasonable cause to believe the same to have been stolen or unlawfully obtained, such person shall be liable to a penalty not exceeding one hundred rupees, or to imprisonment, with or without hard labour, for any term not exceeding three months.

Penalty if such possession fraudulent.

3. Any person found, between sunset and sunrise, armed with any dangerous or offensive instrument whatsoever, with intent to commit any offence against the person or property of another ;

Apprehension and punishment of reputed thieves, etc.

any reputed thief found, between sunset and sunrise, on board any vessel or boat, or lying or loitering in any bazar, street, road, yard, thoroughfare or other place, who shall not give a satisfactory account of himself ;

any person found, between sunset and sunrise, having his face covered or otherwise disguised, with intent to commit any such offence as aforesaid ;

[1] The words " suburbs or ", in s. 1, which were omitted by the Repealing Act, 1874 (16 of 1874), are omitted.

(Secs. 7-10.)

any person found, between sunset and sunrise, in any dwelling-house or other building whatsoever, without being able satisfactorily to account for his presence therein;

and any person having in his possession, without lawful excuse (the proof of which excuse shall be on such person), any implement of house-breaking,

shall be liable to imprisonment, with or without hard labour for a term not exceeding three months;

and any such person may be taken into custody by any police-officer without a warrant.

4-6. [*Penalty for carrying arms without authority ; order for maintenance of wives or children ; penalty for harbouring deserters from merchant-vessels.*] *Rep. by the Bengal Municipal Act, 1884 (Ben. Act 3 of 1884).*

Brothels.

7. On the complaint of three or more householders that a house in their immediate neighbourhood is used as a common brothel or lodging-house for prostitutes or disorderly persons of any description, to the annoyance of the respectable inhabitants of the vicinity, the Magistrate may summon the owner or tenant of the house to answer the complaint

and on being satisfied that the house is so used, and is therefore a source of annoyance and offence to the neighbours, may order the owner or tenant to discontinue such use of it;

and, if he shall fail to comply with such order within five days, may impose upon him a fine to the extent of twenty-five rupees for every day thereafter that the house shall be so used.

8, 9. [*Licenses for retail sale of spirituous or fermented liquors.*] *Rep. by the Bengal Municipal Act, 1884 (Ben. Act 3 of 1884).*

Penalty for
owning or
keeping, or
having charge
of, a gaming-
house, etc.

10. Whoever, being the owner or occupier, or having the use of any house, room or place, keeps or uses the same as a common gaming-house; [1]

and whoever, being the owner or occupier of any house or room, knowingly and wilfully permits the same to be kept or used by any other person as a common gaming-house; [1]

and whoever has the care or management of, or in any manner assists in conducting, the business of any house, room or place so kept or used;

and whoever advances or furnishes money for the purpose of gaming [1] with persons frequenting such house, room or place,

[1] For definitions of "common gaming-house" and "gaming", see s. 59, *post*, pp. 39 and 40.

of 1857.]

THE HOWRAH OFFENCES ACT, 1857.

(Secs. 11-13.)

shall be liable to a fine not exceeding two hundred rupees, or to imprisonment, with or without hard labour, for any term not exceeding three months.

11. Whoever is found in any such house, room or place, playing or gaming [1] with cards, dice, counters, money [or other instruments of gaming, [1] or

Penalty for being found playing in a gaming-house.

is found there present for the purpose of gaming, whether playing for any money, wager, stake or otherwise,

shall be liable to a fine not exceeding one hundred rupees, or to imprisonment, with or without hard labour, for any term not exceeding one month ;

and any person found in any common gaming-house [1] during any gaming [1] or playing therein shall be presumed, until the contrary be proved, to have been there for the purpose of gaming. [1]

12. If the Magistrate, upon information on oath, and after such inquiry as he may think necessary, has reason to believe that any house, room or place is used as a common gaming-house, [1] he may, by his warrant, give authority to any superior officer of police

Magistrate may authorize certain police officers to enter a gaming-house for the purpose of search and seizure.

to enter, with such assistance as may be found necessary, by night or by day, and by force if necessary, any such house, room or other place,

and to take into custody all persons whom he finds therein whether or not then actually gaming, [1]

and to seize all instruments of gaming, [1] and all moneys and securities for money, and articles of value, reasonably suspected to have been used or intended to be used for the purpose of gaming [1] which are found therein,

and to search all parts of the house, room or place which he shall have so entered when he has reason to believe that any instruments of gaming [1] are concealed therein, and also the persons of those whom he so takes into custody,

and to seize and take possession of all instruments of gaming [1] found upon such search.

13. On conviction of any person for keeping any such common gaming-house [1] or being present therein for the purpose of gaming, [1] all the instruments of gaming [1] found therein shall be destroyed by order of the Magistrate ;

On conviction for keeping a gaming-house, instruments of gaming to be destroyed, etc.

who may also order all or any of the securities for money, and other articles seized, not being instruments of gaming, [1] to be sold and converted

[1] For definitions of "gaming", "instruments of gaming" and "common gaming-house", see s. 59, post, pp. 39 and 40.

into money, and the proceeds thereof, with all moneys seized therein, to be forfeited; or, in his discretion, may order any part thereof to be returned to the persons appearing to have been severally thereunto entitled.

Portion of
fine may be
paid to
informer.

14. The Magistrate may direct any portion, not exceeding one-fourth of any fine which shall be levied under sections 10 and 11 of this Act, or any part of the moneys or proceeds of articles seized and ordered to be forfeited under section 13, to be paid to an informer.

Gambling in
the streets.

15. A police-officer may apprehend without warrant any person found gaming with cards, dice, counters, money or other instruments of gaming, [1] in any public street, place or thoroughfare;

and such person shall be liable to a fine not exceeding twenty rupees, or to imprisonment, with or without hard labour, for any term not exceeding one month;

and such instruments of gaming [1] and money shall be forfeited.

16, 17. [*Pawnbrokers, etc., to report stolen property; pawnbrokers, etc., when to be deemed receivers of stolen goods.*] Rep. by the Bengal Municipal Act, 1884 (Ben. Act 3 of 1884).

Manufacture
or possession
of gunpowder.

18. Whoever manufactures gunpowder,

or, without a license from the Magistrate, has in his possession in any house, shop, warehouse or other building, at any one time, a greater quantity of gunpowder than ten pounds,

shall be liable to a fine not exceeding two hundred rupees, and also to forfeit such gunpowder so manufactured or possessed, together with the vessel or receptacle in which it may be contained.

Licenses by
Magistrate
for sale and
deposit of
gunpowder,
etc.

19. The Magistrate may grant to any person a license for the sale or keeping in deposit of any quantity of gunpowder not exceeding fifty pounds on such conditions, and for such term not exceeding one year, as shall be specified in the license;

and any person who shall be guilty of a breach of any of such conditions shall be liable to a fine not exceeding one hundred rupees, and to forfeit all gunpowder so kept in deposit contrary thereto, and the vessels containing it, and also to forfeit his license.

Penalty for
drunkenness,
or riotous or
indecent
behaviour in
public.

20. Whoever is found drunk and incapable of taking care of himself or is guilty of any riotous or indecent behaviour in any street or thoroughfare or in any place of public amusement or resort,

[1] For definition of "instruments of gaming", see s. 59, post, p. 40.

of 1857.]

THE HOWRAH OFFENCES ACT, 1857.

(Secs. 21-23.)

and whoever is guilty of violent behaviour in any police-office, shall be liable to a fine not exceeding twenty rupees, or to imprisonment, with or without hard labour, for a term not exceeding fourteen days.

21. Whoever wilfully and indecently exposes his person, or commits a nuisance by easing himself in or by the side of or near to any public street or thoroughfare or place, shall be liable to a fine not exceeding ten rupees, or, in default of payment thereof, to imprisonment, with or without hard labour, for a term not exceeding fourteen days.

Penalty for committing nuisance in streets.

22. Whoever in any public road, street, thoroughfare or place begs or applies for alms, or exposes or exhibits any sores, wounds, bodily ailment or deformity with the object of exciting charity or of obtaining alms, or whoever seeks for or obtains alms by means of any false statement or pretences,

Beggars.

shall be liable to imprisonment, with or without hard labour, for any term not exceeding one month.

23. Whoever, in any public street, road, thoroughfare or place of public resort, commits any of the following offences shall be liable to a fine not exceeding twenty rupees :—

Penalty for the following offences in public streets, etc.—

i.—Whoever drives or rides any animal or drives any vehicle in a manner so rash or negligent as to indicate a want of due regard for the safety of others :

furious or negligent driving or riding :

ii.—Whoever negligently lets loose any horse, or suffers to be at large any ferocious dog without a muzzle, or sets on or urges any dog or other animal to attack, worry or put in fear any person, horse or other animal :

letting loose horses, ferocious dogs, etc.:

iii.—Whoever, being in charge of a cart, carriage or horse leaves it at such a distance as not to have the same under due control :

leaving cart, etc., without control :

iv.—Whoever fastens any animal so as to cause obstruction or danger to passengers :

obstruction to passengers by fastening animals :

v.—Whoever cruelly beats, abuses or tortures any animal :

ill-treating animals :

vi.—Whoever sets fire to or burns any straw or other matter, or lights any bon-fire, or wantonly discharges any fire-arm or air-gun, or lets off or throws any fire-work, or sends up any fire-balloon.

lighting fires and discharging guns, fire-works, etc

24. [Beating drums, tomtoms, etc.] Rep. by the Bengal Municipal Act, 1884 (Ben. Act 3 of 1884).

25-32. [Penalty for depositing dirt on street, &c.; allowing sewerage to flow on street; future obstructions in street; taking up pavement; removal

THE HOWRAH OFFENCES ACT, 1857.

[Act 21.]

(Secs. 51-53.)

of projections from houses ; houses projecting to be set back when taken down ; power to trim hedges bordering on roads.] Rep. by the Bengal Municipal Act, 1876 (Ben. Act 5 of 1876).

33-37. [Houses in dangerous state ; sale of materials of such houses ; penalty for not removing filth ; filthy houses, etc. ; filthy cattle-stalls, etc.] Rep. by the Bengal Municipal Act, 1884 (Ben. Act 3 of 1884).

38. [Licensing of public necessaries.] Rep. by the Bengal Municipal Act, 1876 (Ben. Act 5 of 1876).

39. [Neglecting private drains, etc.] Rep. by the Bengal Municipal Act, 1884 (Ben. Act 3 of 1884).

40-45. [Penalty for fouling water ; power to fill up unwholesome tanks ; power to drain off stagnant pools ; penalty for not lighting deposits of building materials or excavations ; enclosing of dangerous places ; penalty for establishing slaughter-houses without license.] Rep. by the Bengal Municipal Act, 1876 (Ben. Act 5 of 1876).

46. [Unclean slaughter-houses.] Rep. by the Bengal Municipal Act, 1884 (Ben. Act. 3 of 1884).

47-50. [Offensive trades ; burial and burning grounds ; stray dogs.] Rep. by the Bengal Municipal Act, 1876 (Ben. Act 5 of 1876).

51. Any police-officer may arrest without a warrant any person committing in his view any offence against this Act, if the name and address of such person be unknown to him.

52. Any police-officer may take into custody, without a warrant, any person who is charged with committing an aggravated assault, in every case in which he shall have good reason to believe that such assault has been committed although not in his view, and that, by reason of the recent commission of the offence, a warrant could not have been obtained for the apprehension of the offender.

53. Every person taken into custody without a warrant by a police-officer under this Act shall be taken to the nearest police-office, in order that such person may be detained until he can be brought before the Magistrate, or until he shall enter into recognizances, with or without sureties for his appearance before the Magistrate.

Any person so detained and not entering into recognizances shall be carried before the Magistrate within twenty-four hours from the time of his being taken into custody.

Police-officer may arrest without warrant on view of offence.

Police-officer may take into custody, without warrant, persons charged with aggravated assault recently committed.

Persons taken into custody by a police-officer without warrant may be detained in police-office until brought before Magistrate or bailed.

of 1857.]

THE HOWRAH OFFENCES ACT, 1857.

(Secs. 54-59.)

54. Upon any information or complaint laid before the Magistrate of any offence committed against this Act, the Magistrate may summon the person charged to appear at a time to be mentioned in the summons, or, if he see sufficient cause for so doing, may issue a warrant for his apprehension.

* * * * *

* [1]

Procedure on information or complaint laid before the Magistrate of an offence against this Act.

In all cases of offences punishable with fine only, if after due service of summons the person charged shall not appear in pursuance thereof, the Magistrate, at his discretion, may hear and determine the case in his absence.

* * * * *

*[2]

55. [Recovery of costs or expenses.] Rep. by the Repealing and Amending Act, 1903 (1 of 1903).

56. Any Joint Magistrate or Deputy Magistrate duly authorised to exercise the powers of a Magistrate, and any Assistant vested with special powers, may, in cases referred to him by the Magistrate, exercise all the powers vested in a Magistrate by this Act.

Jurisdiction.

57. All fines imposed and levied under this Act shall be applied in aid of any fund applicable to police and conservancy purposes in the said * * [3] station ;

Application of fines.

and all costs and expenses which the Magistrate is hereby authorised to incur shall be paid from and repaid to such fund ; or, if there be no such fund, all such fines as aforesaid shall be applied by the Magistrate to the cleansing or otherwise improving of the said * * [3] station.

58. [Supersession of Act 21 of 1841.] Rep. by the Repealing and Amending Act, 1891 (12 of 1891).

59. In the construction of this Act,

* * * * *

*[4]

Interpretation.

[5] ["common gaming-house" shall include any house, tent, room, space or walled enclosure in which rain-gambling, that is to say, wagering on the occurrence or non-occurrence of rain, is carried on for the profit or gain of

[1] Words repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

[2] The words " Provided also that no appeal shall lie from any order of a Magistrate passed with the sanction of the Lieutenant-Governor of Bengal under section 49 of this Act," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

[3] The words " suburbs or", in s. 57, which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

[4] Clauses as to number and gender, which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted. See now the General Clauses Act, 1897 (10 of 1897), s. 13, in General Acts, 1891-98, Ed. 1899, p. 325.

[5] These three definitions, printed on this page and the next page, were added by the Bengal Rain-gambling Act, 1897 (Ben. Act 3 of 1897), s. 3, printed in Vol. I

THE HOWRAH OFFENCES ACT, 1857.

[Act 21]

(Schedule.)

the person owning, occupying, using or keeping such house, tent, room, space or enclosure ;

“gaming ” shall include rain-gambling ; and

“instruments of gaming ” shall include books or registers in which rain-gambling wagers are entered, all other documents containing evidence of such wagers, and any thing used as a means of rain-gambling.]

[1] SCHEDULE.

Of Places included in the * * * [2] *Station of Howrah*
* * * * [3]

STATION OF HOWRAH.

Howrah (including)

Panchánantalá.

Juláhápára.

Chándmári (with Tandel Bágán).

North Betrá.

South Betrá.

Ichápur.

Saunpur.

Goládángá.

Rámkrishnapur.

Khurát (with Kasondiyá).

Chakarber.

Santrágáchhi.

Sathgharra.

Gudár Hát (with Kinkar Chatterjea's Hát).

Battore.

Sibpur (with Baji Sibpur, Majerhát, Bharpára, Bhattatalá, Sriharinaupára. Bishop's College and Company's Botanical Garden.)

Padmapukhar.

South Baksará.

North Baksará.

[1] This Schedule is referred to in section 1, *ante*, p. 33.

[2] The words “Suburbs of Calcutta and,” which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[3] The part of this Schedule which was headed “Suburbs of Calcutta” was repealed by the Repealing Act, 1874 (16 of 1874), and is omitted.

of 1857.]

HOWRAH.

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THE HOWRAH OFFENCES ACT, 1857. (Schedule.)

STATION OF HOWRAH.

Salkiya (including)

Bándághát (with Haraganj and Bánurjyapára).

Ghoosery (with Bhát Bágán).

Málipánchghará.

Barrackpore.

• Bellur.

Naksha.

Chakpára.

Nallua.

Belgáchhiyá (with Paikán Belgáchhiyá).

Báhmangachehi.

Chaurásta (with Dharmatalá, Goghátá and Báludángá).

Golábári (with Filkhána).

HOWRAH BRIDGE.

Ben. Act 9 of 1871	.	.	the Howrah Bridge Act, 1871, page	43
Ben. Act 3 of 1880	.	.	the Howrah Bridge Act, 1880	„ 51
Ben. Act 3 of 1888	.	.	the Howrah Bridge Act Amendment Act, 1888	„ 52

THE HOWRAH BRIDGE ACT, 1871 (BENGAL ACT 9 OF 1871).

CONTENTS [1].

PREAMBLE.

SECTION.

1. Interpretation.
2. Power to make bridge.
3. Power to charge tolls.
4. Power to levy fees.
Power to re-impose payment of the fees exempted under this section.
5. Appointment of person to collect tolls and take charge.
6. Lieutenant-Governor may make bye-laws.
7. Penalty for infringement of bye-law.
8. Bye-laws and tables of tolls to be exhibited.
9. Power to collect tolls through East Indian Railway Company.
10. Power to apply public funds in construction of bridge.
11. Accounts to be kept of bridge.
12. Power to nominate Commissioners.
13. Commissioners to have powers and duties of Lieutenant-Governor.
Property to vest in Commissioners.
14. Property of Commissioners to be applied for purposes of Act.
15. Repayment of principal sums due.
16. Payment of interest.
17. Power to repay before due date.
18. Application of surplus income.
19. Estimate of income and expenditure to be submitted annually to Commissioners.
20. Revision and passing of estimate.
21. Estimate to be approved by Lieutenant-Governor.
22. Tolls to be reduced on accumulation of sufficient reserve fund.
23. Power to make supplemental estimate.
24. Approval of bye-laws.

[1] This table has been newly added.

[Ben. Act 9 of 1871.] THE HOWRAH BRIDGE ACT, 1871.

(Sec. 1.)

SECTION.

25. Lieutenant-Governor may revoke and annul bye-laws.
26. Certain provisions of Bengal Act 5 of 1870 extended.
27. Limitation of suits.
28. No compensation for obstruction.
29. Penalty on evasion of toll.
30. Power to arrest.
31. Summary jurisdiction.
32. Offender to be forthwith brought to trial.
33. Short title.

Schedule.

THE HOWRAH BRIDGE ACT, 1871

(BENGAL ACT 9 OF 1871). [1]

[5th July, 1871.]

An Act for the construction of a bridge across the river Hooghly between Howrah and Calcutta.

WHEREAS it is expedient that a bridge should be constructed across the river Hooghly between Howrah and Calcutta; It is enacted as follows:—

1. The following words and expressions shall have the meanings hereby assigned to them, unless where a contrary intention shall appear from the context:—

the word "Commissioners" shall mean the Commissioners for making improvements in the port of Calcutta, [2] incorporated by Act 5 of 1870, [3] passed by the Lieutenant-Governor of Bengal in Council:

"Magistrate" includes a Justice of the Peace for Calcutta and any person exercising all or any of the powers of a Magistrate.

[1] LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, *see* Calcutta Gazette, 1871, p. 411; and for Proceedings in Council, *see ibid.*, Supplement, 1871, pp. 91, 106, 228, 255, 283 and 293.

LOCAL EXTENT.—This Act applies only to the Howrah Bridge and the ways and approaches thereto (*see* s. 2), and the Howrah Railway Station (*see* ss. 4 and 9).

AMENDING ACTS.—Ben. Act 3 of 1880 is to be deemed to have always been a part of this Act—*see* Ben. Act 3 of 1880, s. 1, *post*, p. 52.

Ben. Act 3 of 1888 is to be read with, and taken as part of, this Act—*see* Ben. Act 3 of 1888, s. 1, *post*, p. 58.

ORDERS AND BYE-LAWS.—For orders and bye-laws issued under this Act, *see* the Bengal Local Statutory Rules and Orders, 1903, Vol. II, pp. 206, 207.

[2] This body is now styled "the Commissioners for the Port of Calcutta"—*see* the Calcutta Port Act, 1890 (Ben. Act 3 of 1890), s. 4, in Vol. IV of this Code.

[3] Ben. Act 5 of 1870 has been repealed and re-enacted by the Calcutta Port Act, 1890 (Ben. Act 3 of 1890), and this reference should now be construed as a reference to the latter Act—*see* s. 2 (4) thereof, in Vol. IV of this Code.

Power to
make bridge.

2. It shall be lawful for the Lieutenant-Governor of Bengal to cause a bridge to be constructed across the river Hooghly between Calcutta and Howrah, at such place at or near Armenian Ghat as he may select, and also such ways and approaches to such bridge as he shall deem necessary, and to cause to be maintained such bridge and approaches. [1]

Power to
charge tolls.

3. The said Lieutenant-Governor shall form a scale of tolls, fees and charges for the use of the said bridge, and may from time to time vary such scale; and such tolls, fees and charges shall be leviable in respect of the several matters mentioned in the schedule hereto annexed:

[2] [Provided always that such tolls, fees and charges shall not exceed the respective rates mentioned in the said schedule, and that it shall be lawful for the Lieutenant-Governor from time to time to exempt all or any passengers, animals, vehicles and goods using or conveyed on the said bridge from payment of the tolls, fees and charges prescribed in the said schedule.]

Power to levy
fees.

4. Towards meeting the charges incurred in the construction and maintenance of the said bridge and approaches, the Lieutenant-Governor of Bengal may levy or cause to be levied, from the date of the opening of the said bridge for traffic, the following fees on goods and passengers conveyed on the railway of the East Indian Railway Company into and from the station at Howrah, namely:—

On every maund of goods 2 pie.

On every passenger 3 pie:

Provided that the said Lieutenant-Governor may at any time lower the said fees, and may also exempt any goods or any passengers from payment of the said fees:

Power to
re-impose
payment of
the fees ex-
empted under
this section.
Appointment
of person to

[3] [Provided also that the said Lieutenant-Governor may, from time to time, re-impose the payment of the fees on any goods or any passengers which may have been exempted from such payment under this section.]

5. The said Lieutenant-Governor may appoint such person or persons as

[1] For power of Commissioners to own and run steam and other vessels in the service of the bridge, see the Howrah Bridge Act, 1880 (Ben. Act 3 of 1880), s. 2, *post*, p. 52.

[2] This proviso to s. 3 was substituted for the original proviso by the Howrah Bridge Act Amendment Act, 1888 (Ben. Act 3 of 1888), s. 3, *post*, p. 53. The original proviso ran thus:—

“Provided always that such tolls, fees and charges shall not exceed the respective rates mentioned in the said schedule, and that it shall be lawful for the Lieutenant-Governor to exempt from payment of tolls all or any passengers or goods conveyed on the East Indian Railway, or all or any carriages or persons using the said bridge for the purpose of going to or returning from the station of the said railway at Howrah.”

[3] This proviso was added to s. 4 by the Howrah Bridge Act Amendment Act, 1888 (Ben. Act 3 of 1888), s. 4, *post*, p. 53.

of 1871.]

THE HOWRAH BRIDGE ACT, 1871.

(Secs. 6-10.)

he shall think fit to collect tolls, fees and charges under this Act, and also to take charge of the said bridge and to superintend the traffic thereon.

collect tolls and take charge.

6. It shall be lawful for the Lieutenant-Governor of Bengal from time to time to make bye-laws

Lieutenant-Governor may make bye-laws.

for the guidance of persons employed by him under this Act ;

for the safe and convenient use of the bridge to be constructed under the provisions of this Act, and approaches thereto ;

for the passage of ships, boats and vessels through the said bridge ;

for the mode of payment and levy of the tolls, fees and charges leviable under this Act ;

or otherwise for carrying out the purposes of this Act ;

and from time to time to vary, alter or revoke any such bye-law so made by him.

7. No penalty for any one infringement of a bye-law shall exceed one hundred rupees, nor in case of a continuing infringement shall any penalty exceed fifty rupees *per diem* for every day after notice of such infringement shall have been given by or on behalf of the said Lieutenant-Governor to the person guilty of such infringement.

Penalty for infringement of bye-law.

8. The Lieutenant-Governor of Bengal shall cause the said bye-laws, and the tables of tolls, fees and charges leviable, to be printed in the English, Hindustani, Hindi and Bengali languages and characters, and to be hung up and kept hung up at the approaches to the said bridge.

Bye laws and tables of tolls to be exhibited.

9. It shall be lawful for the East Indian Railway Company and the said Lieutenant-Governor to make such arrangement or agreement for the collection of tolls, fees and charges by the said Company in respect of persons, animals, carriages and goods crossing the said bridge to or from the station of the said Company at Howrah, or conveyed into or from the said station, as to the said Company and the said Lieutenant-Governor shall seem fit, and upon such agreement being made the said Company shall levy the said tolls, fees and charges.

Power to collect tolls through East Indian Railway Company.

10. It shall be lawful for the said Lieutenant-Governor to advance for the construction of the said bridge and approaches thereto such sums out of the public funds as from time to time may be in that behalf sanctioned by the Governor General of India in Council.

Power to apply public funds in construction of bridge.

Interest at the rate of four and-a-half *per centum per annum* shall be charged on such sums respectively on the thirty-first day of March and on the thirtieth day of September in each year from the respective dates upon which

(Secs. 11-14.)

such sums shall have been advanced up to the date of the opening of the said bridge for traffic; and all sums so charged for interest as aforesaid shall be deemed to be sums advanced within the meaning of this section.

Accounts to be kept of bridge.

11. The said Lieutenant-Governor shall cause such accounts as he shall think fit to be kept of all expenditure in or about the construction or maintenance of the said bridge and approaches, and the collection of such tolls, fees or charges, or otherwise in relation to the said bridge, and the payment of interest which may from time to time be payable to the Secretary of State for India in Council, and also of the income derived from such tolls, fees and charges, and shall from time to time apply the balance which shall remain of such income, after defraying thereout the current expenses incurred in relation to such bridge, and interest as aforesaid, in repaying to the Secretary of State for India in Council all sums which shall have been advanced from the public funds for the construction of the said bridge and approaches.

Power to nominate Commissioners.

12. It shall be lawful for the said Lieutenant-Governor of Bengal at any time after the commencement of this Act, if he think fit, with the assent of the Commissioners at a meeting, by order published in the Calcutta Gazette, to appoint the said Commissioners to carry out the purposes of this Act.

Commissioners to have powers and duties of Lieutenant-Governor.

13. When and so soon as the Commissioners shall be so appointed, the Commissioners, subject however to the provisions hereinafter in that behalf contained, shall and may have and exercise all the powers and authorities, and shall perform all the duties, in and by sections 5 to 8 (both inclusive) of this Act or any of them, or in and by section 10, conferred or imposed on the said Lieutenant-Governor.

Property to vest in Commissioners.

And all property procured for the construction of the said bridge and the approaches thereof, and the said bridge and approaches, and the tolls, fees and charges thereof, and the right to enforce all contracts respecting the same, shall become vested in the Commissioners.

Property of Commissioners to be applied for purposes of Act.

14. All property vested in, or acquired by, the Commissioners under or by virtue of this Act, and all moneys payable to them under or by virtue of this Act, shall be held in trust for the payment of all sums which from time to time shall be payable to the Secretary of State for India in Council for moneys advanced or applied, or to be advanced or applied by or on behalf of the said Secretary of State for India in Council for the construction of a bridge across the river Hooghly between Howrah and Calcutta, or otherwise under the provisions of this Act, and subject thereto upon trust for the purposes of this Act and not otherwise.

of 1871.]

THE HOWRAH BRIDGE ACT, 1871.

(Secs. 15-18.)

And nothing in this Act contained shall be construed so as to render the said Commissioners liable to make good any moneys payable by them under the provisions of this Act, or otherwise in relation to the said bridge, except out of property and moneys held by them in trust as aforesaid.

15. The aggregate sum which may under the provisions of section 10 of this Act become payable from the Commissioners to the said Secretary of State shall be by them repaid to him in thirty equal annual instalments, the first of such instalments to be paid on the first day of April which shall be next after the completion of twelve calendar months from the date of the opening of the said bridge for traffic, and the other instalments to be paid respectively on the first day of April in every year, computing from the day fixed for the payment of the first of such instalments.

Repayment of principal sum due.

16. Interest at the rate of four and-a-half *per centum per annum* shall be paid by the Commissioners to the said Secretary of State upon the aggregate amount which for the time being may be payable to him from them upon the thirty-first day of March and the thirtieth day of September in each year, the first of such payments of interest to be calculated from the date of the opening of the said bridge for traffic and to be made on the thirty-first day of March or the thirtieth day of September, whichever may first happen next after the opening of the said bridge for traffic.

Payment of interest.

17. Notwithstanding the provisions of section 14, it shall be lawful for the Commissioners, if they think fit, out of any moneys which may come to their hands under the provisions of this Act, to repay to the said Secretary of State in Council any sum or part thereof which for the time being may remain payable to him under the provisions of this Act for principal, although the time fixed by the said section for the repayment of the same shall not have arrived :

Power to repay before due date.

Provided always that no such repayment shall be made of any sum less than five thousand rupees, nor of any sum not being a multiple of five thousand rupees, and from and after any such repayment no further sum as interest shall be payable to the said Secretary of State in Council in respect of the sum which shall have been so repaid.

18. Whenever the half-yearly accounts to be laid before the Lieutenant-Governor of Bengal under the provisions of this Act shall show a surplus of income over expenditure, such surplus or so much thereof as the said Commissioners shall think fit may be invested by the Commissioners in the purchase in their corporate name of Government securities, and the interest thereof may

Application of surplus income.

be accumulated and invested in like manner, with power to the Commissioners at any time to dispose of any such securities, and to apply the proceeds and interest thereof, with the sanction of the Lieutenant-Governor, in or towards any of the purposes of this Act.

The said Government securities shall be held by the said Commissioners in trust for the purposes of this Act and not otherwise.

Estimate of
income and
expenditure to
be submitted
annually
to Commis-
sioners.

19. The salaried Chairman or salaried Vice-Chairman of the Commissioners shall at a meeting, to be held within two months after the Commissioners shall have been appointed, lay before the Commissioners a separate estimate of the expenditure and income under this Act of the Commissioners for the period which shall be to come from the date of their appointment up to the first day of April then next ensuing; and shall also at a meeting, to be held in the month of February in each year, lay before the Commissioners a like estimate of such income and expenditure for the year commencing on the first day of April then next ensuing.

Every such estimate shall be in such form as the Lieutenant-Governor of Bengal shall by an order published in the Calcutta Gazette direct:

Provided always that such estimate shall be completed and printed, and a copy thereof sent by post or otherwise to each Commissioner, at least ten clear days prior to the meeting before which the estimate is to be laid.

Revision and
passing of
estimate.

20. It shall be in the discretion of the Commissioners at such meeting by resolution to pass or to reject, or to modify or alter, such estimate, and pass such estimate so modified or altered.

Estimate to be
approved by
Lieutenant-
Governor.

21. Every such estimate, when passed by the Commissioners in pursuance of the provisions of this Act, shall be submitted to the Lieutenant-Governor of Bengal, and it shall be lawful for such Lieutenant-Governor either to approve of such estimate or to return the same with his remarks thereupon, and the Commissioners shall forthwith at a meeting proceed to re-consider such estimate in reference to such remarks, and to modify or alter the same, and to re-submit such estimates to the said Lieutenant-Governor, and it shall not be lawful for the Commissioners to expend any greater sum under such estimate than shall be approved by the said Lieutenant-Governor.

Tolls to be
reduced on
accumulation
of sufficient
reserve fund.

22. After the repayment of all sums advanced under the provisions of section 10 of this Act, whenever an estimate is submitted or re-submitted pursuant to the next preceding section, if the Government securities then held by the Commissioners shall have been declared by them at a meeting, and shall be considered by the Lieutenant-Governor, to form a sufficient reserve fund for

of 1871.]

THE HOWRAH BRIDGE ACT, 1871.

(Secs. 23-28.)

the purposes of this Act, then the said Lieutenant-Governor shall so regulate the scale of fees, tolls and charges in relation to the said bridge as that the probable income derivable therefrom shall be no more than is sufficient to defray the expenditure set forth in the said estimate.

23. It shall be lawful for the Commissioners, in the course of any year for which an estimate shall have been approved by the Lieutenant-Governor, to cause a supplemental estimate for the residue of such year to be prepared and laid before the Commissioners at a meeting, and thereupon such proceedings shall be had as in and by sections 19, 20 and 21 are directed to be had with respect to the estimate therein mentioned.

Power to make supplemental estimate.

24. No bye-law or alteration or revocation of a bye-law made by the Commissioners shall have effect until the same shall have been approved by the Lieutenant-Governor of Bengal by an order published in the Calcutta Gazette, and no bye-law made by the Commissioners shall be approved by the said Lieutenant-Governor until it shall have been published for three weeks successively in the Calcutta Gazette; and, when such bye-law shall have been so approved, all Courts of Law shall take judicial notice thereof.

Approval of bye-laws.

25. It shall be lawful for the Lieutenant-Governor of Bengal, by an order published in the Calcutta Gazette, to revoke, annul and make void any bye-law made by the Commissioners.

Lieutenant-Governor may revoke and annul bye-laws.

26. When and so soon as the Commissioners shall be so appointed as aforesaid, all the provisions contained in sections 17, 18, 19, 21, 24, 25, 26, 27, 28, 29, 30, 31, 33, 34, 35, 36, 37, 38, 52, 53, 76, 79, 80, 88, 89, 90 and 91 of the said Act 5 of 1870 [1] passed by the Lieutenant-Governor of Bengal in Council, shall apply to this Act as if the said sections were re-enacted herein; and this Act and the said sections of the said Act shall, for the purpose of the construction of this Act, be read and construed together.

Certain provisions of Bengal Act 5 of 1870 extended.

27. No suit or other proceeding shall be commenced or prosecuted against any person for anything done or professing or purporting to be done in pursuance of this Act without giving to such person a month's previous notice of the intended proceeding and of the cause thereof, nor after tender of sufficient amends, nor after the expiration of three months from the accrual of the cause of suit or other proceeding.

Limitation of suits.

28. No person shall be entitled to any compensation for any loss or injury

No compensation for obstruction.

[1] Ben. Act 5 of 1870 has been repealed and re-enacted by the Calcutta Port Act, 1890 (Ben. Act 3 of 1890), and these references should now be construed as references to the corresponding portions of the latter Act—see s. 2 (4) thereof, in Vol. IV of this Code.

THE HOWRAH BRIDGE ACT, 1871. [Ben. Act 9 of 1871.]

(Secs. 29-33.—Schedule.)

which he may sustain by reason of any obstruction to the navigation of the said river which may be caused by the said bridge, or by anything done in the construction thereof.

Penalty on
evasion of
toll.

29. Any person who shall wilfully evade, or attempt to evade, payment of any toll, fee or charge payable under this Act, shall be liable to a fine which may extend to fifty rupees, or to imprisonment, simple or rigorous, which may extend to fourteen days, or to both.

Power to
arrest.

30. Any person committing any offence against the provisions of the last section may be arrested by any officer to be by the Lieutenant-Governor, the Commissioners or the said Railway Company thereunto appointed, and by such officer or any person by him thereunto authorised, or by any officer of police, and forthwith conveyed before some Magistrate having jurisdiction in the place in which such offence shall have been committed, or to the nearest police-station within the said jurisdiction.

Summary
jurisdiction.

31. Whenever such person shall be brought before a Magistrate, such Magistrate may forthwith hear and determine the charge of such offence.

Offender to be
forthwith
brought to
trial.

32. Whenever such person shall be taken to a police-station, the officer in charge of such station shall, as soon as conveniently may be, cause him to be conveyed before some Magistrate having jurisdiction in the matter.

Short title.

33. This Act may be called the Howrah Bridge Act, 1871.

SCHEDULE

(referred to in section 3.)

MAXIMUM AMOUNT OF TOLLS, FEES AND CHARGES.

	Rs.	As.	P.
For every foot-passenger with or without load	0	0	3
For every horse	0	1	0
For every pony, mule or ass	0	0	6
For every buffalo	0	1	0
For every cow, ox or bull	0	0	6
For every calf, sheep, goat or pig	0	0	3
Or per score	0	3	0
For every two-wheeled vehicle without springs	0	1	0
Ditto ditto carrying goods or animals or passengers	0	3	0
For every two-wheeled vehicle with springs	0	2	0
For every four-wheeled vehicle without springs	0	2	0
Ditto ditto carrying goods or animals or passengers	0	4	0

[Ben. Act 9 of 1871.] THE HOWRAH BRIDGE ACT, 1871..

(Schedule.)

[Ben. Act 3 of 1880.] THE HOWRAH BRIDGE ACT, 1880.

(Preamble.)

SCHEDULE — *contd.*

	Rs. As. P.
For every four-wheeled vehicle with springs other than a second or third class hackney-carriage	0 4 0
For every maund of goods conveyed over the bridge on a tramway or railway	0 0 4
For every empty truck using a tramway or railway	0 4 0
For every locomotive steam-engine	1 0 0
Animals drawing any of the above vehicles to be charged in addition to the charge on the vehicle.	
For every second class hackney-carriage	0 1 0
Ditto ditto carrying goods or passengers	0 8 0
For every third class hackney-carriage	0 1 0
Ditto ditto carrying goods or passengers	0 2 0
For every palanquin and bearers	0 2 0

THE HOWRAH BRIDGE ACT, 1880 [1]

(BENGAL ACT 3 OF 1880).

[19th May, 1880.]

Ben. Act 9 of
1871.

An Act to amend the Howrah Bridge Act, 1871. [2]

WHEREAS under the sanction of the Lieutenant-Governor of Bengal the Commissioners for making Improvements in the Port of Calcutta, being the Commissioners appointed under Bengal Act 9 of 1871, [2] have for some time past been running steamers from Calcutta to Howrah and back, and carrying passengers and goods therein, and employing tugs and other boats in towing vessels through the Howrah bridge and generally in the service of the said bridge, and it is expedient that they should continue to own and work such steamers, tugs and boats for the purposes aforesaid, and also that the said Commissioners should have power to build, purchase, provide or

Preamble.

[1] SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), printed in Vol. I, p. 18.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1880, Pt. IV, p. 99; and for Proceedings in Council, see *ibid*, Supplement, 1880, pp. 322, 405.

LOCAL EXTENT.—This Act applies only to the Howrah Bridge and the river between Calcutta and Howrah—see s. 2.

[2] Printed *ante*, p. 43.

HOWRAH BRIDGE.

THE HOWRAH BRIDGE ACT, 1880. [Ben. Act 3 of 1880.]

(Secs. 1, 2.)

THE HOWRAH BRIDGE ACT AMENDMENT ACT, 1888. [Ben. Act 3 of 1888.]

(Preamble.)

procure steam-vessels and tugs and other craft and employ the same for any of the purposes aforesaid ; It is hereby enacted as follows :—

To be part of
Ben. Act 9,
1871.

1. This Act shall be, and shall be deemed to have always been, a part of Bengal Act 9 of 1871. [1]

Commission-
ers may build
or acquire and
run steam-
vessels, etc.,
in the service
of the bridge
and may book
goods and
passengers.

2. It shall be lawful for the Commissioners, with the sanction of the Lieutenant-Governor of Bengal, to build or acquire in any manner whatsoever such steam or other vessels as they may think fit,

and to employ the same or any of them in towing vessels through the bridge and generally in the service of the bridge, and also in carrying goods, merchandize and passengers to and from such places in Calcutta and Howrah, as may from time to time be fixed by the Lieutenant-Governor,

and to book and receive goods, merchandize and passengers at any such places,

and to make and levy such fees and charges as may from time to time be prescribed by the Lieutenant-Governor for the aforesaid duties and services.

THE HOWRAH BRIDGE ACT AMENDMENT ACT, 1888

(BENGAL ACT 3 OF 1888). [2]

[3rd October, 1888.]

An Act to amend the Howrah Bridge Act, 9 of 1871. [1]

Ben. Act 9 of
1871.

Preamble.

WHEREAS it is expedient to empower the Lieutenant-Governor of Bengal to remit the payment of the tolls, fees and charges levied under the provisions of the Howrah Bridge Act of 1871 [1] upon all passengers, animals, vehicles and goods using or conveyed upon the said bridge, and to re-impose the payment of the fees on any goods or any passengers which may have been

Ben. Act. 9 of
1871.[1] Printed *ante*, p. 48.[2] LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, *see* Calcutta Gazette, 1888, Pt. IV, p. 98 ; for Report of Select Committee, *see* *ibid* ; and for Proceedings in Council, *see* *ibid*, Supplement, 1888, pp. 1015, 1056 and 1182.LOCAL EXTENT.—The local extent of this Act is the same as that of Ben. Act 9 of 1871, as to which *see* foot-note [1] on p. 48, *ante*.

[Ben. Act 3 of 1888.] THE HOWRAH BRIDGE ACT AMENDMENT ACT, 1888.

(Secs. 1-4.)

exempted from such payment under section 4 of the said Act; It is hereby enacted as follows :—

1. This Act may be called the Howrah Bridge Act Amendment Act, Short title. 1888.

2. It shall be read with, and taken as part of, Bengal Act 9 of 1871. [1] Construction of Act. [Commencement.] Rep. by the Repealing and Amending Act, 1903 (1 of 1903).

3. For the proviso to section 3 the following proviso shall be substituted :— Amendment of section 3 of Ben. Act 9 of 1871. [Printed ante, p. 44.]

4. After the proviso to section 4 the following proviso shall be added :— Amendment of section 4 of Ben. Act 9 of 1871. [Printed ante, p. 44.]

[1] Printed ante, p. 43.

INCUMBERED ESTATES.

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See reprint in Supplement

THE CHOTA NAGPUR INCUMBERED ESTATES ACT, 1876

(ACT OF 1876).

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THE CHOTA NAGPUR INCUMBERED ESTATES ACT, 1876.

[Act 6]

(1.—Preliminary.—II.—Vesting Order.—Secs. 1, 2.)

THE CHOTA NAGPUR INCUMBERED ESTATES ACT,
1876

(ACT 6 of 1876). [1]

[14th March, 1876.]

An Act to relieve certain Landholders in Chota Nagpur.

Preamble.

WHEREAS it is expedient to provide for the relief of holders of land in Chota Nagpur who may be in debt, and whose immoveable property may subject to mortgages, charges and liens; It is hereby enacted as follows :—

I.—PRELIMINARY.

Short title.

1. This Act may be called the Chota Nagpur Incumbered Estates Act, 1876.

II.—VESTING ORDER.

Power to vest
management
of property in
an officer
appointed by
Commissioner.

2. Whenever any holder of immoveable property, or (when such holder is a minor, or of unsound mind, or an idiot) his guardian, committee or other legal curator, or the person who would be heir to such holder if he died intestate, or (when such person is a minor, or of unsound mind, or an idiot) his guardian, committee or other legal curator, or, when any such property belonging to such holder has been attached in execution of a decree of a Civil Court, the Deputy Commissioner within whose jurisdiction such property is situated, applies in writing to the Commissioner, stating that the holder of the said property is subject to, or that his said property is charged with, debts or liabilities other than debts due, or liabilities incurred, to Government, and requesting that the provisions of this Act be applied to his case.

[1] LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Gazette of India, 1876, Pt. V, p. 21; and for Proceedings in Council, see *ibid.*, Supplement, 1876, pp. 54, 59, 195, 218, 289 and 322.

LOCAL EXTENT.—This Act applies to and has also been applied, as amended by Additions, to the Deo Estate in the Gaya Division, being of a purely private character, has not been reprinted in this Code.

REPRINT.—For an annotated reprint of

RULES AND INSTRUCTIONS.—For rules made under s. 19 of the Act, see *ibid.*, pp. 200 to 203; and for Instructions issued by the Commissioner, see *ibid.*, p. 203, clauses 1 and 2.

Chota Nagpur Division (see the title and preamble), Act of 1884 (*post*, p. 65), and with certain other modifications—see the Deo Estate Act, 1886 (9 of 1886), which has been reprinted in this Code.

For the Act, see the Wards Manual, 1897, pp. 191 to 199.

made under s. 19 of the Act, see *ibid.*, pp. 200 to 203, with reference to those rules, see *ibid.*, p. 203, clauses

of 1876.] THE CHOTA NAGPUR INCUMBERED ESTATES ACT, 1876.

(II.—*Visiting Order*.—Sec. 3.)

the Commissioner may, with the previous consent of the Lieutenant-Governor of Bengal, by order published in the Calcutta Gazette, appoint an officer (hereinafter called the manager), and vest in him the management of the whole or any portion of the immoveable property of or to which the said holder is then possessed or entitled in his own right, or which he is entitled to redeem, or which may be acquired by or devolve on him or his heir, during the continuance of such management.

[1] [Every application under this section must state—

- (a) the particulars of the debts and liabilities as aforesaid to which the said holder is subject or with which his immoveable property is charged; and
- (b) the particulars of the immoveable property of or to which he is then possessed or entitled in his own right or which he is entitled to redeem.

Every such application must, except when it is made by a Deputy Commissioner, be verified by the applicant or by some other competent person in the manner required by law [2] for the verification of plaints, and, if it contains any averment which the person making the verification knows or believes to be false or does not know or believe to be true, he shall be deemed to have given false evidence within the meaning of the Indian Penal Code. [3]

3. [4] [On the publication of an order under section 2,] the following consequences shall ensue:—

Effect of order.

First, all proceedings which may then be pending in any Civil Court in British India, in respect to such debts or liabilities, shall be barred; and all processes, executions and attachments for or in respect of such debts and liabilities shall become null and void;

Bar of suits.

Secondly, so long as such management continues,

Freedom from arrest.

the holder of the said property and his heir shall not be liable to arrest for or in respect of the debts and liabilities to which the said holder was immediately before the said publication subject, or with which the property so

[1] These clauses in square brackets in s. 2 were added by the Chota Nagpur Incumbered Estates (Amendment) Act, 1884 (5 of 1884), s. 2, *post*, p. 65.

[2] See now the Code of Civil Procedure (Act 14 of 1882), s. 52, in General Acts, 1882-84, Ed. 1898, p. 283.

[3] Printed, General Acts, 1834-67, 1898, p. 240.

[4] The words in square brackets in s. 3 were substituted for the words "On such publication" by the Chota Nagpur Incumbered Estates (Amendment) Act, 1884 (5 of 1884), s. 3, *post*, p. 65.

(III.—Duties of Manager.—Sec. 4.)

vested as aforesaid or any part thereof was at the time of the said publication charged, other than debts due, or liabilities incurred, to Government, nor shall their moveable property be liable to attachment or sale, under process of any Civil Court in British India, or in respect of such debts and liabilities other than as aforesaid; and

Moveable property not attachable for prior debts.

Cessation of power to alienate.

Immoveable property freed from attachment.

Cessation of power to contract.

Thirdly, so long as such management continues,

- (a) the holder of the said immoveable property and his heir shall be incompetent to mortgage, charge, lease or alienate their immoveable property or any part thereof, or to grant valid receipts for the rents and profits arising or accruing therefrom,
- (b) such property shall be exempt from attachment or sale under such process as aforesaid, except for or in respect of debts due, or liabilities incurred, to Government, and
- (c) the holder of the same property and his heir shall be incapable of entering into any contract which may involve them, or either of them, in pecuniary liability.

III.—DUTIES OF MANAGER.

Manager to receive rents and profits

and pay therefrom—the Government demand,

rent due to superior landlord,

for maintenance of holder and his heir, costs of repairs and improvements,

costs of management, debts and liabilities,

4. The manager shall, during his management of the said immoveable property, receive and recover all rents and profits due in respect thereof; and shall, upon receiving such rents and profits, give receipts for the same.

From the sums so received, he shall pay—

- first*, the Government revenue, and all debts or liabilities for the time being due or incurred to Government;
- secondly*, in the case of under-tenure, the rent (if any) due to the superior landlord, in respect of the said property;
- thirdly*, such annual sum as appears to the Commissioner requisite for the maintenance of the holder of the property, his heir, and their families;
- fourthly*, the costs of such repair and improvements of the property as appear necessary to the manager and are approved by the Commissioner;

and the residue shall be applied in charge of the costs of the management, and in settlement of such debts and liabilities of the holder of the property and his heir as may be established under the provisions hereinafter contained,

of 1876.] THE CHOTA NAGPUR INCUMBERED ESTATES ACT, 1876.

(IV.—Settlement of Debts.—Secs. 5-7.)

[1] [and also in or towards the payment, either before or after the liquidation of such debts and liabilities of any loan received from the Government by the manager under this Act.] and Government loan to himself.

IV.—SETTLEMENT OF DEBTS.

5. On the publication of the order vesting in him the management of the said property, the manager shall publish a notice in English, Urdu and Hindi, calling upon all persons having claims against the holder of the said property to notify the same in writing to such manager within three months from the date of the publication.

Notice to claimant against holder of property.

Such notice shall be published by being posted at the cutcherries in the district or districts in which the said property lies, and at such other places as the manager thinks fit.

Notice how published.

6. Every such claimant shall, along with his claim, present full particulars thereof.

Claim to contain full particulars.

Every document on which the claimant founds his claim, or on which he relies in support thereof, shall be delivered to the manager along with the claim.

Documents to be given up.

If the document be an entry in any book, the claimant shall produce the book to the manager, together with a copy of the entry on which he relies. The manager shall mark the book for the purpose of identification, and, after examining and comparing the copy with the original, shall return the book to the claimant.

Entries in books.

If any document in the possession or under the control of the claimant is not delivered or produced by him to the manager along with the claim, the manager may refuse to receive such document in evidence on the claimant's behalf at the investigation of the case.

Exclusion of documents not produced.

7. Every debt or liability other than debts due, or liabilities incurred, to Government or (in the case of under tenures) the rent due to the superior landlord, to which the holder of the property is subject, or with which the property is charged, and which is duly notified to the manager within the time and in manner hereinbefore mentioned, shall be barred:

Debt not duly notified to be barred.

Provided that, when proof is made to the manager that the claimant was unable to comply with the provisions of sections 5 and 6, the manager may

Admission of claim within further period.

[1] This clause in square brackets was inserted by the Chota Nagpur Incumbered Estates (Amendment) Act, 1884 (5 of 1884), s. 4, s. 4, p. 65.

admit his claim within the further period of [1] [six months] from the expiration of the said period of three months.

Determination of debts.

8. The manager shall, in accordance with the rules to be made under this Act, determine the amount of all principal debts and liabilities justly due to the several creditors of the holder of the property, and to persons holding mortgages, charges or liens thereon, and the interest (if any) due at the date of such determination in respect of such debts and liabilities.

Power to inquire into consideration for leases.

9. If such property or any part thereof be in the possession of any person claiming to hold it under a lease dated within the three years immediately preceding the publication of the order mentioned in section 2, the manager, with the sanction of the Deputy Commissioner and Commissioner (or of the Commissioner only, if the Deputy Commissioner be himself the manager), may inquire into the sufficiency of the consideration for which the lease was given ;

Power to set aside leases.

and, if such consideration appear to him insufficient, may by order either set aside the lease or cause the person so in possession to pay such consideration for the said lease as the manager thinks fit, and in default of such payment the lease shall be cancelled.

Appeal to Deputy Commissioner.

10. An appeal against any refusal, admission, determination or order under section 6, 7, 8 or 9 shall lie, if preferred within six weeks from the date thereof, to the Deputy Commissioner within whose jurisdiction the property is situate, and the decision of the manager, if no such appeal has been so preferred, shall be final :

Provided that, if the Deputy Commissioner be himself the manager, the appeal shall lie to the Commissioner.

Appeal to Commissioner.

An appeal shall lie from any decision of the Deputy Commissioner, if preferred within six weeks of the date of his decision, to the Commissioner, and the decision of such Commissioner, or of the Deputy Commissioner if no such appeal has been so preferred, shall be final.

Scheme for settlement of debts.

11. When the amount due in respect of the debts and liabilities mentioned in section 8 has been finally determined, the manager shall prepare and submit to the Commissioner a schedule of such debts and liabilities, and scheme for the settlement thereof ; and such scheme, when approved by the Commissioner, shall be carried into effect.

Power to return scheme for revision.

Until such approval is given the Commissioner may, as often as he thinks fit, send back such scheme to the manager for revision, and direct him to make

[1] The words "six months" in s. 7 were substituted for the words "nine months" by the Chota Nagpur Incumbered Estates (Amendment) Act, 1884 (5 of 1884), s. 3, *post*, p. 65.

of 1876.]

THE CHOTA NAGPUR INCUMBERED ESTATES ACT, 1876.

(IV.—Settlement of Debt.—Sec. 12.)

such further inquiry as may be requisite for the proper preparation of the scheme.

12. [1] [When all the debts and liabilities mentioned in the schedule referred to in section 11, and the amount of any loan received from the Government under section 18, together with the interest (if any) due thereon, have been paid and discharged],

Restoration of owner to his property.

[2] [or if the Commissioner, at any time before a scheme has been approved by him under section 11, thinks that the provisions of this Act should not continue to apply to the case of the holder of the said property or his heir],

[3] [or if at any time an arrangement is made for the satisfaction of the debts and liabilities which is accepted by the creditors and approved by the Commissioner],

such holder or his heir shall be restored to the possession and enjoyment of the property, or of such part thereof as has not been sold by the manager under the power contained in section 18, but subject to the leases and mortgages (if any) granted and made by the manager under the powers hereinafter contained.

Where the holder of the property or his heir is so restored under the circumstances mentioned in the second clause of this section, such restoration shall be notified in the Calcutta Gazette, and thereupon the proceedings, processes, executions and attachments mentioned in section 3 (so far as they relate to debts and liabilities which the manager has not paid off or compromised), and the debts and liabilities barred by section 7, shall be revived; and any mortgagee or conditional vendee dispossessed under section 16 shall be re-instated, unless his claim under the mortgage or conditional sale has been satisfied;

Restoration to be notified.

Revival of barred proceedings and debts.

Re-instatement of mortgagees.

and in calculating the periods of limitation applicable to such revived proceedings, and to suits to recover or to enforce such revived debts and liabilities, the time intervening between such restoration and the publication of the order mentioned in section 2 shall be excluded.

Period of limitation as to revived proceedings and debts.

[1] This clause in square brackets was substituted for the original clause by the Chota Nagpur Incumbered Estates (Amendment) Act, 1884 (5 of 1884), s. 6 (1), *post*, p. 65. The original clause ran as follows:—

“When all such debts and liabilities have been discharged.”

[2] This clause in square brackets was substituted for the original clause by the Chota Nagpur Incumbered Estates (Amendment) Act, 1884 (5 of 1884), s. 6 (2), *post*, p. 65. The original clause ran as follows:—

“or if, within six months after the publication of the order mentioned in section 2, the Commissioner thinks that the provisions of this Act should not continue to apply to the case of the holder of the said property or his heir.”

[3] This clause in square brackets was inserted by the same Act, s. 6 (3), *post*, p. 65.

V.—POWERS OF MANAGER.

Power to call for further particulars.

13. The manager may, from time to time, call for further and more detailed particulars of any claim preferred before him under this Act, and may at his discretion refuse to proceed with the investigation of the claim until such particulars are supplied.

Power to summon witnesses and compel production of documents.

14. For the purposes of this Act the manager may summon and enforce the attendance of witnesses and compel them to give evidence, and compel the production of documents by the same means, and, as far as possible, in the same manner, as is provided in the case of a Civil Court by the Code of Civil Procedure.^[1] 8 of 1859.

Investigation to be deemed a judicial proceeding.

15. Every investigation conducted by the manager with reference to any claim preferred before him under this Act, or to any matter connected with any such claim, shall be taken to be a judicial proceeding within the meaning of the Indian Penal Code.^[2] 45 of 1860.

Statements of persons examined to be evidence.

And every statement made by any person examined by or before the manager with reference to such investigation, whether upon oath or otherwise, shall be taken to be evidence within the meaning of the same Code.

Manager to have powers of holder of estate.

16. The manager shall have, for the purpose of realizing and recovering the rents and profits of the said immoveable property, the same powers as the holder of the property would have had for such purpose if this Act had not been passed.

Power to remove mortgage or conditional vendee in possession.

And if such property, or any part thereof, be in the possession of any mortgagee or conditional vendee, the manager may apply to the Court of the Deputy Commissioner within whose jurisdiction the property is situate, and such Court shall cause the same to be delivered to the manager as if a decree therefor had been made in his favour, but without prejudice to the mortgagee or vendee preferring his claim under the provisions hereinbefore contained.

Power to lease.

17. Subject to the rules made under section 19, the manager shall have power to demise all or any part of the property under his management for any term of years ^[3] [or in perpetuity] to take effect in possession, in consideration of any fine or fines, or without fine, and reserving such rents and under such conditions as may be agreed upon.

[1] This reference to Act 8 of 1859 should now be read as applying to Act 14 of 1882 (the Code of Civil Procedure)—see s. 8 of the latter Act, in General Acts, 1882-84, Ed. 1898, p. 284.

[2] Printed in General Acts, 1834-67, Ed. 1898, p. 240.

[3] The words in square brackets in s. 17 were substituted for the words "not exceeding twenty years absolute" by the Chota Nagpur Incumbered Estates (Amendment) Act, 1884 (5 of 1884), s. 7, *post*, p. 66.

of 1876.] THE CHOTA NAGPUR INCUMBERED ESTATES ACT, 1876.

(V.—Powers of Manager.—VI.—Miscellaneous.—Secs. 18, 19.)

18. The manager, with the previous assent of the Commissioner, shall have power to raise any money which may be required for the settlement of the debts and liabilities (other than as aforesaid) to which the holder of the property is subject, or with which such property or any part thereof is charged, by demising by way of mortgage the whole or any part of such property for a term not exceeding twenty years from the said publication, or by selling, * * * * [1] by public auction or by private contract, and upon such terms as the manager thinks fit, such portion of the same property as may appear expedient, [2] [or by borrowing money from the Government at such rate of interest as appears reasonable to the Local Government].

Power to raise money by mortgage or sale.

And no mortgagee advancing money upon any mortgage made under this section shall be bound to see that such money is wanted, or that no more than is wanted is raised.

And the receipt of the manager for any moneys paid to him as such shall discharge the person paying the same therefrom and from being concerned to see to the application thereof.

Manager's receipts.

[3] [The powers conferred by this section shall not be exercised until a scheme has been approved by the Commissioner under section 11.]

VI.—MISCELLANEOUS.

19. The Lieutenant-Governor of Bengal may, from time to time, make rules consistent with this Act to regulate the following matters :—

Power to make rules.

(a) the security to be required from subordinate officers under this Act;

[4] (aa) the classes of cases which may be submitted by the Commissioner for the consent of the Lieutenant-Governor under section 2 ;

(b) the notices to be given under this Act and the publication of such notices ;

[1] The words " with the previous consent of the holder of the property and of the person (being of full age) who would be his heir if he died intestate ", which were repealed by the Chota Nagpur Incumbered Estates (Amendment) Act, 1894 (5 of 1894), s. 8 (a), are omitted.

[2] These words in square brackets in s. 18 were inserted by the same Act, s. 8 (b), *post*, p. 66.

[3] This clause in s. 18 was substituted for the original clause by the same Act, s. 8 (c), *post*, p. 66. The original clause ran thus :

" The power to mortgage conferred by this section shall not be exercisable until six months have elapsed from the publication of the order mentioned in section 2."

[4] Clause (aa) was inserted in s. 19 by the same Act, s. 9, *post*, p. 66.

THE CHOTA NAGPUR INCUMBERED ESTATES ACT, 1876. [Act 6 of 1876.]

(VI.—Miscellaneous.—Secs. 20-24.)

- (c) the procedure to be followed in determining under section 8 the debts and liabilities due to creditors and other persons, and in performing the other duties imposed on any officer by this Act;
- (d) the allowance of interest on each of the principal debts and liabilities so determined, from the date on which it was incurred down to the date of the determination and on the aggregate amount of such debts and liabilities from the date of the determination down to the date of payment

(e) the order of paying debts and liabilities so determined;

and generally for the guidance of officers in all matters connected with the enforcement of this Act.

Such rules, when approved by the Governor General in Council and published in the Calcutta Gazette, shall have the force of law.

Power to
appoint new
managers.

20. Whenever the Commissioner thinks fit, he may appoint any officer to be a manager in the stead of any manager appointed under this Act; and thereupon the property then vested under this Act in the former manager shall become vested in the new manager.

Every such new manager shall have the same powers as if he had been originally appointed.

Managers
to be public
servants.

21. Every manager appointed under this Act shall be deemed a public servant within the meaning of the Indian Penal Code.^[1]

45 of 1860.

Bar of suits.

22. No suit or other proceeding shall be maintained against any person in respect of anything done by him *bona fide* pursuant to this Act.

Saving of
jurisdiction of
Courts in
Chota Nagpur
in respect
of certain
suits.

23. Nothing in this Act precludes the Courts in Chota Nagpur having jurisdiction in suits relating to the succession to, or claims of maintenance from, any immoveable property brought under the operation of this Act from entertaining and disposing of such suits; but to all such suits the manager of such property shall be made a party.

Act not to
affect powers
conferred by
Bengal Act 2
of 1869.

24. Nothing in this Act shall be deemed to take away or abridge any power or authority conferred by an Act ^[2] passed by the Lieutenant-Governor of Bengal in Council, entitled "An Act to ascertain, regulate and record certain tenures in Chota Nagpur," on any person appointed to be a Special Commissioner thereunder, or on the Commissioner of the division of Chota Nagpur.

Ben. Act 2 of
1869.

[1] Printed in General Acts, 1884-87, Ed. , p. 240.

[2] The Chota Nagpur Tenures Act, 1869. It is printed *post*, under the head "Landlord and Tenant."

[Act 5 of 1884.] THE CHOTA NAGPUR INCUMBERED ESTATES
(AMENDMENT) ACT, 1884.

(Secs. 1-6.)

THE CHOTA NAGPUR INCUMBERED ESTATES
(AMENDMENT) ACT, 1884 [1]

(ACT 5 OF 1884).

[26th February, 1884.]

An Act to amend the Chota Nagpur Incumbered Estates
Act, 1876. [2]

6 of 1876.

WHEREAS it is expedient to amend the Chota Nagpur Incumbered Estates
Act, 1876 [2]; It is hereby enacted as follows :—

1. "Section" in this Act means a section of the Chota Nagpur Incumbered Estates Act, 1876. [2] Meaning of "section".
2. To section 2 the following shall be added, namely :— Addition to section 2 of Act 6 of 1876.
(Printed *ante*, p. 57.)
3. In section 3, for the words "On such publication" the words "On the publication of an order under section 2" shall be substituted. Amendment of section 3.
4. To section 4 the following shall be added, namely :— Addition to section 4.
(Printed *ante*, p. 59.)
5. In section 7, for the words "nine months" the words "six months" shall be substituted. Amendment of section 7.
6. (1) In section 12, for the first clause the following shall be substituted :— Amendment of section 12.
(Printed *ante*, p. 61.)
(2) In the same section, for the second clause the following shall be substituted, namely :—
(Printed *ante*, p. 61.)
(3) After the second clause of the same section the following shall be inserted, namely :—
(Printed *ante*, p. 61.)

[1] SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (I of 1903), printed in Vol I, p. 18.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Gazette of India, 1883, Pt. V, p. 3, and for Proceedings in Council, see *ibid*, Supplement, 1883, pp. 41, 45, Supplement, 1884, pp. 307, 379.

LOCAL EXTENT.—The local extent of this Act is the same as that of the Chota Nagpur Incumbered Estates Act, 1876, as to which see foot-note [1], page 56, *ante*.

[2] Printed *ante*, p. 56.

INCUMBERED ESTATES.

THE CHOTA NAGPUR INCUMBERED ESTATES [Act 5 of 1884]
(AMENDMENT) ACT, 1884.

(Secs. 7-9.)

Amendment
of section 17.

7. In section 17, for the words "not exceeding twenty years absolute" the words "or in perpetuity" shall be substituted.

Amendment
of sect on 18.

8. In section 18—

* * * * *

(b) after the words "as may appear expedient" the following shall be inserted, namely:—"or by borrowing money from the Government at such rate of interest as appears reasonable to the Local Government"; and

(c) for the last clause the following shall be substituted, namely:—
(Printed *ante*, p. 63.)

Addition to
section 19.

9. In section 19, after clause (a), the following shall be inserted, namely:—
(aa) (Printed *ante*, p. 63.)

10. [*Repeal of Act 12 of 1877.*] *Rep. by the Repealing and Amending Act, 1891 (12 of 1891).*

[1] Clause (a) of s. 8, which was repealed by the Repealing and Amending Act, 1891 (12 of 1891), is omitted.

INDIGO CONTRACTS.

Reg. 6 of 1823	the Bengal Indigo Contracts Regulation, 1823 . . .	page 68
Reg. 5 of 1830	the Bengal Indigo Contracts Regulation, 1830 . . .	„ 74
Act 10 of 1836	the Bengal Indigo Contracts Act, 1836 . . .	„ 76

THE BENGAL INDIGO CONTRACTS REGULATION, 1823 (REGULATION 6 OF 1823).

CONTENTS. [1]

SECTION.

1. Preamble.
2. When persons making advances for cultivation of indigo-plant, on certain land, have lien on, or interest in, its produce.
3. *First.*—Such person how to proceed when he has just reason to believe that raiyat will dispose of produce otherwise than stipulated.
Second.—Summons for attendance of defendant.
Third.—Summons how served, and public notice of claim how given.
Fourth.—On non-appearance of defendant or other claimants, evidence to be taken, and case decided *ex parte*.
Fifth.—In what cases award shall be passed, adjudging plaintiff's right to produce.
Sixth.—If claim be not established, plaintiff to pay costs and compensation to defendant.
Seventh.—Notice to third parties in what cases, and their claims how investigated.
Eighth.—Defendant not to be subjected to unnecessary detention.
Ninth.—In what cases order may issue to deliver plant to a party, before summary inquiry completed.
4. *First.*—Authority to watch fields and to prevent removal of plant given to parties in certain circumstances.
Second.—Security for rent due to landholders, how provided.
5. *First.*—Suits by parties injured by breach of contract in regard to cultivation and delivery of indigo-plant.
Second.—Judgment to what extent in summary suits.
Third.—[*Repealed.*]
Fourth.—Penalty in regular suits, where breach of contract not ascribable to fraud or dishonesty.
6. Investigations how and by whom conducted.
- 7, 8. [*Repealed.*]

[1] This Table has been newly added.

THE BENGAL INDIGO CONTRACTS REGULATION,
1823 [1]
(REGULATION 6 of 1823).

[10th July, 1823.]

A Regulation for authorizing the institution of summary suits to enforce the execution of certain written engagements for the cultivation and delivery of the indigo-plant, and for declaring certain principles in regard to the same.

Preamble.

1. THE poverty of the lower orders in India, and particularly of those employed in agriculture, occasions the general use of borrowed capital for the production of the chief articles of trade and consumption.

The capitalist advances his money, and sometimes the seed likewise, upon a contract to receive the produce of a defined quantity of land, either at a certain fixed price, or at rates to be subsequently determined with reference to the market-price at a specified season; and this system is understood generally to prevail in the Province of Bengal in the cultivation of the plant from which the indigo-dye is extracted.

According to the existing Regulations, the contracting raiyat should fail to cultivate the land in the manner specified, or, having so cultivated the land, should sell the produce to another, or otherwise defraud his creditor, and fail to execute his contract by delivery of the stipulated article, the person with whom he has so contracted has no other remedy than a regular action for the recovery of the penalty conditioned in the agreement.

[1] SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), printed in Vol. I, p. 18.

LOCAL EXTENT.—This Regulation was enacted for the whole of Bengal—see the concluding clause of s. 1, *post*, p. 69. It has been declared, by the Local Extent Act, 1874 (15 of 1874), s. 6 (printed, General Acts, 1868-76, Ed. 189 p. 486), to be in force throughout Bengal, except as regards the Scheduled Districts.

The Regulation has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the following Scheduled District, namely:—

West Jalpaiguri in the Jalpaiguri District—see Vol. V Pt. V B (a).

The application of the Regulation in the de-regulationised tracts in Bengal is barred as follows, namely:—

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), s. 3 (2), printed in Vol. I, p. 257;

and
in the Sonthal Parganas, by the Sonthal Parganas Regulation (3 of 1872), s. 3 (2), as amended by the Sonthal Parganas and Laws Regulation, 1899 (3 of 1899), s. 3, printed in Vol. I, p. 294.

INDIGO CONTRACTS.

69

of 1823.] THE BENGAL INDIGO CONTRACTS REGULATION, 1823.

(Sec. 2.)

It is usual for the Courts of Justice, in decreeing such causes, to award such limited penalty as may, in each instance, appear to be a fair compensation to the person making the advances for the non-employment of his capital.

In the absence, however, of any rule for the regulation of the discretion thus assumed, much confusion has arisen from the conflicting opinions and judgments of the several judicial officers as to the extent of penalty recoverable on agreements of this nature.

*

*

* [1]

It seems reasonable, also, that the person who advances seed and capital, or capital only, for the expenses of cultivation on a defined parcel of land, should be considered to possess a lien and interest in the indigo-plant produced, on that land, when so stipulated in a written engagement between the parties and especially in cases in which such written engagement may have been duly registered * * * [2]; and that it could not be in the power of a raiyat, who has already conditioned for the delivery of the produce of his land to one person, to break the condition by a clandestine and fraudulent transfer of such produce to another.

The system at present in force provides, as above observed, no other remedy for parties injured by this dishonest practice than by a regular action in the Civil Court.

The difficulty and delay of obtaining redress by that course have not unfrequently led to acts of violence, and even to serious affrays; and the more frequent occurrence of such affrays is to be apprehended in consequence of the eager competition which now prevails amongst the indigo-manufacturers in some parts of Bengal, arising from the unusually high price of indigo.

The Governor General in Council has in consequence judged it expedient to declare the principles on which the points above stated shall be settled, and to provide for the more prompt adjustment of disputes and enforcement of contracts of the nature above specified; and the following rules have accordingly been passed, to take effect in the several districts comprised within the Province of Bengal from the date of their promulgation.

2. If any person shall have given advances to a raiyat, or other cultivator of the soil, under a written engagement, stipulating for the cultivation of indigo-plant on a portion of land of certain defined limits, and for the delivery

When persons making advances for cultivation of indigo-plant,

[1] Portion repealed by the Repealing and Amending Act, 1891 (12 of 1891), is omitted.

[2] The words and figures "under the provisions of Regulation 20 of 1812", which were repealed by the Repealing Act, 1876 (12 of 1876), are :

on certain
land have lien
on, or interest
in, its pro-
duce.

of the produce to himself, or at a specified factory or place, such person shall be considered to have a lien or interest in the indigo-plant produced on such land, and shall be entitled to avail himself of the process hereinafter provided for the protection of his interests and for the due execution of the conditions of the contract.

Such person
how to pro-
ceed when
he has just
reason to
believe that
rilyat will
dispose of
produce
otherwise
than
stipulated."

3. *First.*—If any person, who may have made advances on conditions of the nature above described, shall have just reason to believe that an individual under engagement with him is evading or is about to evade the execution of his contract, by making away with and disposing of the produce otherwise than as stipulated, or that he has engaged secretly or openly to supply the same to another, it shall be competent to such person to present a petition of complaint to the Zilla * * [1] Judge * * * * [2] within whose local jurisdiction the land stipulated to be cultivated with the indigo-plant may be situated, filing with the same the original deed of engagement by which the produce may be assigned and engaged to be delivered to himself or at his factory, and certifying in his petition that such deed was voluntarily and *bonâ fide* executed by the individual complained against.

Summons for
attendance
of defendant.

Second.—On such petition and original deed of engagement being filed, a summons, or talab chitthi, shall be immediately issued through the nazir in the usual form, requiring the individual named in the petition to attend and answer to the complaint, either in person or by an authorized agent, within such specified period as may in each instance appear reasonable, and which period shall in no case exceed twenty days.

Summons
how served,

Third.—The officer entrusted with the execution of the process shall also be instructed to affix a copy of the summons in the village catcherry or other place of public resort, and to erect a bamboo on the specific parcel of ground on account of which the claim may have been preferred, and which it shall be the duty of the plaintiff or his agent to point out.

and public
notice of
claim how
given.

By these means sufficient public notice of the claim will be given to enable persons desirous of contesting the plaintiff's right, or of establishing a prior right to the produce of the land, to appear either in person or by an authorized agent before the Court for that purpose, and the failure so to attend, before the summary decision be passed, will be held to bar the claim of any third

[1] The words "or City", which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[2] The words "or to a register exercising the powers of a Magistrate", which were repealed by the same Act, are omitted.

of 1823.]

THE BENGAL INDIGO CONTRACTS REGULATION, 1823.

(Sec. 3.)

party founded on any contract for the produce of the land in question, unless it be established by a regular suit.

Fourth.—If the officer serving the process shall not be able to execute it on the person of the defendant, he shall nevertheless publish the claim in the manner above directed, and if the defendant shall not appear to answer to the complaint within the period specified in the summons, and no other claim be referred in bar of that of the plaintiff, the Judge * * [1], shall, after taking evidence to establish the deed and other allegations of the plaintiff, proceed to the adjudication of the claim, in the same manner as if the defendant had personally appeared.

On non-appearance of defendant or other claimants, evidence to be taken, and case decided *ex parte*.

Fifth.—If the defendant or his authorized agent should attend within the period specified, and should deny the execution of the deed of engagement filed by the complainant, proof of the same shall be taken; and if its voluntary execution be established to the satisfaction of the Court * * * [2] and no preferable claim be established by a third party, a summary award shall be made, adjudging to the plaintiff the right of receiving the crops according to the terms of the agreement.

In what cases award shall be passed, adjudging plaintiff's right to produce.

The same principle shall be applied if the engagement be admitted and no satisfactory reason be shown why the defendant should not be held to the performance of his contract.

Sixth.—If it be proved that the engagement was not duly and voluntarily executed by the defendant, or if it should appear that the proceeding is otherwise litigious and oppressive, and the claim unfounded, or that the plaintiff had no sufficient cause to warrant his application to the Court, the complaint shall be dismissed, and the plaintiff shall be made liable to the payment of costs and such reasonable sum in addition as may seem to the Judge * * * [3] a proper compensation to the defendant for any trouble and annoyance to which he may have been subjected.

If claim be not established, plaintiff to pay costs and compensation to defendant.

Seventh.—If it should appear in the course of the inquiry that the defendant is under engagement for the same land to a third party, notice shall immediately be issued for that party to appear and plead, either in person or by vakil; and if such person or any third party shall, previously to the decision

Notice to third parties in what cases and their claims how investigated.

[1] The words "or other officer", in s. 3, clause (4), which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

[2] The words "or other tribunal trying the case", in s. 3, clause (5), which were repealed by the same Act, are omitted.

[3] The words "or other officer trying the case", in s. 3, clause (6), which were repealed by the same Act, are omitted.

of the case, come forward and produce a similar deed of engagement, stipulating for the produce of the same portion of land, the Judge * * * * [1] shall, after such summary investigation as may be necessary, determine whether either of the parties have any just claim to the produce of the land, and, if so, which of them may have the prior and better claim; a preference will of course be given to engagements duly registered * * * * [2].

Defendant
not to be
subjected to
unnecessary

The result of such investigation shall be recorded, and a decree passed adjudging the question of right between the parties.

at cases
order may
issue to de-
liver plant
to a party,
before
summary
inquiry
completed.

Eighth.—No defendant who may attend under the process described in this section shall be confined in jail, or be in any manner detained, longer than may suffice to take his answer to the claim and to obtain from him such further explanations as the nature of the answer may suggest.

Ninth.—If, pending the summary inquiry in the manner above directed, it shall appear that the plant on the ground is in a state fit to be cut, and will be injured or destroyed if not cut, it shall in such case be competent to the Judge * * * * [1] to pass an order [3] for the delivery of the plant to either of the parties provided that the said party consents and engages to pay to the other claimant (if the summary award should be ultimately in favour of the latter) a specific pecuniary compensation;

the amount of such compensation shall be by the Judge * * * [4] in communication with the parties, and shall be regulated with reference to the estimated produce of the ground, and to the probable value of such produce when manufactured; and the amount, when so fixed, shall be carefully recorded on the proceedings.

Authority to
watch fields
and to prevent
removal of
plant given to
parties in
certain
circumstances.

4. *First.*—Any person in whose favour a summary award shall have been passed for the produce of any defined spot of land shall be entitled to place a watch over the same, and to prevent the cutting and removal of the plant in any manner contrary to the stipulations of his agreement;

and, in the event of any attempt being made to cut or remove the plant, it shall be competent to the person holding the decree to apply to the nearest police-daroga and to claim from him the assistance of the police in preventing such removal;

[1] The words "or other officer trying the case", in s. 3, (7) and (9), which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), omitted.

[2] The words and figures "under the provisions of Regulation 20, 1812," which were repealed by the Repealing Act, 1876 (12 of 1876), are omitted.

[3] As to security to be given by a person desiring to remove indigo-plant, ordered to be delivered to him under cl. (9) of s. 3, see the Bengal Indigo Contracts Act, 1836 (10 of 1836), s. 2, *post*, p. 76.

[4] The words "or other person trying the case", which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

of 1823.] THE BENGAL INDIGO CONTRACTS REGULATION, 1823.

(Secs. 5, 6.)

it shall, moreover, be the duty of the police-officers and of all other officers on such a decree being exhibited, to aid the person in whose favour it may have been passed to the utmost of their power.

Second.—In order that the foregoing rule may not operate to the prejudice of the landholders, who * * * [1] are authorized to attach the crops for the realization of rents justly due to them, it is any manufacturer, who may have obtained an award under the foregoing rules, may cause the plant to be cut and taken away, he shall be held responsible, conjointly with the raiyat, for any arrear of rent which may have been due on account of the specific parcel of ground from which the indigo-plant may have been taken.

Security for rent due to landholders

5. *First.*—In cases in which a raiyat who may have received advances and entered into written agreements for the cultivation and delivery of indigo-plant, in the manner indicated in this Regulation, shall have failed to cultivate the ground specified, or, having cultivated it, shall have failed or refused to complete his engagement, or shall have sold, made away with, or transferred the produce to another person, the party with whom such agreement was first made shall be at liberty to institute, at his option, either a summary or a regular suit.

Suits by parties injured by breach of contract in regard to cultivation and delivery of indigo plant.

Second.—If the summary process be adopted and the cause be decided in favour of the plaintiff, the defendant shall be subjected to the payment of the amount of the advances actually received by him, with interest on the same, and the costs of the summary process.

Judgment to what extent in summary suits.

Third.—[*Judgments in regular suits.*] *Rep. by the Bengal Indigo Contracts Act, 1836 (10 of 1836).*

Fourth.—If no fraud or dishonest dealing be established, and the failure of a raiyat or other contractor to execute the stipulations of his engagement by the delivery of indigo-plant in the manner stipulated be owing to accident, or to any cause not implying fraud or dishonesty, the penalty to be adjudged against a contractor shall not exceed three times the sum advanced as the consideration for executing the deed, including interest.

Penalty in regular suits where breach of contract not ascribable to fraud or dishonesty.

6. * * [2] Investigations under this Regulation shall be conducted according to the form and in the manner prescribed for the conduct of * * [2] suits for arrears of rent * * * [3]. It shall * * [3] be competent to any person whose claim under a deed of engagement for the cultivation

Investigations how and by whom conducted.

[1] The words "by the existing Regulations", which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

[2] The word "summary", which was repealed by the Repealing Act, 1874 (16 of 1874), is omitted.

[3] Words repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

THE BENGAL INDIGO CONTRACTS REGULATION, 1823. [Reg. 6 of 1823.]

THE BENGAL INDIGO CONTRACTS REGULATION, 1830. [Reg. 5 of 1830.]

(Sec. 1

and delivery of indigo-plant may have been set aside * * * [1], or who may be otherwise dissatisfied with the decision passed on * * * [2] [3] [an investigation] under the foregoing provisions, to institute a regular suit for the recovery of the penalty stipulated in the deed of engagement, or for the establishment of any other claim or interest to which he may deem himself entitled.

7, 8. [Stamp on contract concerning indigo-plant; such contract may include several individuals and separate transactions.] Rep. by the Court-fees Act, 1870 (7 of 1870).

BENGAL INDIGO CONTRACTS REGULATION, 1830 [4]

(REGULATION of 1830).

[9th June, 1830.]

A Regulation * * * [5] relating to the cultivation and delivery of Indigo-plant.

Preamble.

1. * * * * * [6]
whereas it is desirable in certain cases afford persons who may be

[1] The words "by a summary award", which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[2] The word "summary", which was repealed by the same Act, is omitted.

[3] The words in square brackets in s. 6 were substituted for the words "a investigation" by the Repealing and Amending Act, 1891 (12 of 1891).

[4] SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), printed in Vol. I, p. 18.

LOCAL EXTENT.—This Regulation was enacted for the whole of Bengal—see the concluding clause of s. 1 on next page.

Sections 1 and 5 of the Regulation have been declared by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed, General Acts, 1868-Ed. 1898, p. 484), to be in force throughout Bengal, except as regards the Scheduled Districts.

The same sections have been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the following Scheduled District, namely:—

West Jalpaiguri, in the Jalpaiguri District—see Vol. V, Pt. V B (a).

The application of the Regulation in the designated tracts in Bengal is barred as follows, namely:—

in the Angul District, by the Angul District Regulations, 1894 (1 of 1894), s. 3 (3), printed in Vol. I, p. 257;

Regulations, 1899 (1 of 1900),

and
in the Sonthal Parganas, by the Sonthal Parganas Regulations (3 of 1872), s. 3 (3), as amended by the Sonthal Parganas Judicature and Laws Regulation, 1899 (3 of 1899), s. 3, printed in Vol. I, p. 294.

[5] Words in the title and preamble which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

[Reg. 5 of 1830] THE BENGAL INDIGO CONTRACTS REGULATION, 1830.

(Sec. 5.)

unwilling to renew their contracts for the cultivation of indigo the means of obtaining, by summary process, a release from their engagements ;

the following rules have been enacted, to be in force from the date of their promulgation throughout the territories subject to the Presidency of Fort William.

2. [*Criminal prosecution of persons inducing raiyats to break contract.*]

Rep. by the Repealing Act, 1868 (8 of 1868).

3. [*Cultivators failing to fulfil engagements liable to imprisonment.*]

Rep. by Act 16 of 1835.

4. [*Punishment of persons damaging indigo plant.*] *Rep. by Act 3 of 1857.*

5. *First.*—Any person who, having received advances under a written agreement for the cultivation of indigo, shall be desirous, on the expiration of the period of his contract, to settle his account, shall be at liberty, in the event of the proprietor of the factory, or the person acting in his behalf, refusing to settle the same, to present a petition to the Zila Court ;

Procedure by persons wishing to be released from their engagements.

and the Judge, after a summary inquiry, in the presence of the parties or their authorized agents, into the merits of the case, shall, on proof of the expiration of the contract, and of there being no balance due from the petitioner, or if the petitioner shall deposit in Court the amount of any balance that may be adjudged to be due from him, grant the said petitioner a release from his engagement, and shall pay over the amount of any balance that may be deposited by him to the proprietor, or to the person acting in his behalf.

Second.—If the proprietor or person aforesaid shall refuse to receive the balance awarded to him by the summary process above provided, the Judge shall return the amount to the petitioner, leaving the defendant to seek his remedy by a regular suit.

Procedure if proprietor objects to receive balance.

INDIGO CONTRACTS.

THE BENGAL INDIGO CONTRACTS ACT, 1836. [Act 10

(Secs. 2 | 3.)

THE BENGAL INDIGO CONTRACTS ACT, 1836 [1]

(ACT 10 of 1836).

[11th April, 1836.]

1. [Repeal of cl. 3 of s. 5 of Reg. 6 of 1823.] Rep. by the Repealing Act, 1870 (14 of 1870).

Security to be given by person desiring to remove indigo-plant ordered to be delivered to him.

2. * * * [2] Whenever the right to indigo-plant may be contested and an order shall be passed under the provisions of clause *ninth*, [8] section 3, Regulation 6, 1823, of the Bengal Code, for the delivery of indigo-plant to one of the parties claiming the same, such party shall not be allowed to cut or remove the indigo plant until he shall have given sufficient security to the satisfaction of the Court trying the case to make good any claim that shall be ultimately established to such indigo-plant, whether arising from a prior right to the produce of the land, or from an arrear of rent due on account of the specific parcel of land from which the plant may have been produced.

Right of suit of person making advances for cultivation or delivery of indigo-plant when breach of contract is induced by third person.

3. * * * [2] When a lawful contract shall have been made between a raiyat and another party, by which contract the raiyat shall have bound himself to cultivate indigo-plant for the other party, or to deliver indigo-plant to the other party, and when the other party shall have advanced money to the raiyat for the purpose of enabling the raiyat to fulfil such contract, then if any other person, knowing that such contract exists and that such advance has been made, shall prevail upon the raiyat to break such contract, the party who made

[1] SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), printed in Vol. I, p. 18.

LOCAL EXTENT.—This Act has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), section 6 (printed, General Acts, 1868-76, Ed. 1898, p. 48), to be in force throughout Bengal, except as regards the Scheduled Districts.

The Act has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the following Scheduled Districts, namely:—

the Hazaribagh, Ranchi, Palamau and Maikbhum Districts, and Pargana Dhalbhum and the Kolhan in the Singbhum District, in the Chota Nagpur Division—see *the* Part V B (b).

The application of the Act in the de-regulationised tracts in Bengal is barred as follows, namely:—

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), s. 3 (2), printed in Vol. I, p. 257;

~~and in the Regulation, 1899 (1 of 1899),~~

in the Sonthal Parganas, by the Sonthal Settlement Regulation (3 of 1872), s. 3 (2), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s. 3, printed in Vol. I p. 294.

[2] Formal words in ss. 2 and 3, which were by the Repealing Act, 1874 (16 of 1874), are omitted.

[3] Printed *ante*, p. 72.

4/

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of 1836.] THE BENGAL INDIGO CONTRACTS ACT, 1836.

(Sec. 4.)

the advance shall be entitled to proceed by civil action against the person who shall have so prevailed on the raiyat, as well as against the raiyat, and to recover from him or them, jointly or severally, damages to the extent of the injury sustained, together with costs of suit :

Provided always that nothing in this section contained shall be construed to give a right of action against any person in consequence of any act which that person may have done for the purpose of procuring payment of a debt or performance of a lawful contract.

Bar of suit for act done to recover debt or secure performance of lawful contract.

4. * * * [1] The Court trying any suit instituted under the provisions of Regulation 6, 1823, [2] of the Bengal Code, or under the provisions of this Act shall be authorised to examine both the plaintiff and the defendant whenever the Court shall deem such examination necessary to the ends of justice ; and, if the award be in favour of the defendant, to assign to the defendant a sum which may be a compensation to him for the expense and loss of time occasioned by the proceeding.

Power to examine both plaintiff and defendant in suit, and to award compensation to successful defendant.

5. [*Power to refer certain suits to a Principal Sadar Amin or Sadar Amin.*] Rep. by the Repealing Act, 1869 (8 of 1868).

[1] Formal words in s. 4, which were omitted by the Repealing Act, 1874 (16 of 1874), are omitted.

[2] Printed *ante*, p. 68.

IRRIGATION.

THE BENGAL IRRIGATION ACT, 1876

(BENGAL ACT 3 OF 1876).

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[1] This Table has been newly added.

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THE BENGAL IRRIGATION ACT, 1876.

[Ben. Act 3

(Preamble.)

THE BENGAL IRRIGATION ACT, 1876

(BENGAL ACT 3 OF 1876).^[1]

[29th March, 1876.]

An Act to provide for irrigation in the Provinces subject to the Lieutenant-Governor of Bengal.

Preamble.

WHEREAS it is necessary to make provision for the construction, maintenance and regulation of canals, for the supply of water therefrom, and for the

[1] LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, *see* Calcutta Gazette, 1875, Pt. IV, p. 76; for Report of Select Committee, *see* *ibid.*, p. 330; and for Proceedings in Council, *see* *ibid.*, Supplement, 1875, pp. 8, 412, 1497; Supplement, 1876, p. 31.

LOCAL EXTENT.—This Act takes effect in Bengal districts to which it is extended by order under s. 1.

For a list of districts to which the Act has been so extended, *see* the Bengal Local Statutory Rules and Orders, 1903, Vol. I, p. 100.

The Act has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the following Scheduled Districts, namely :—

the Hazaribagh, Ranchi, Palamau and Manbhum Districts, and Pargana Dhalbhum and the Kolhan in the Singhbhum District, in the Chota Nagpur Division—*see* Vol. V, Part V B, (b).

The application of the Act in the de-regulationised tracts in Bengal is barred as follows, namely :—

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), s. 3 (2), printed in Vol. I, p. 257;

and
in the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation (3 of 1872), s. 3 (2), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s. 3, printed in Vol. I, p. 294.

REPRINTS.—This Act is reprinted in the Irrigation Manual, 1897, Vol. II, p. 60; in the Orissa Canals Manual, 1896, p. 1; and in the Sone Canals Manual, 1900, p. 1.

RULES, ETC.—For a list of rules and orders made under this Act, *see* the Bengal Local Statutory Rules and Orders, 1903, Vol. I, pp. 100 to 106, and for some of those rules and orders in *extenso*, *see* *ibid.*, Vol. II, pp. 208 to 226.

For rules, orders and instructions issued under or with reference to this Act, *see* also the Irrigation Manual, 1897, Vol. I, pp. 171 to 228.

For rules, instructions, tables and other documents issued under or with reference to the Act for the Orissa Canals, *see* the Orissa Canals Manual, 1896, pp. 25 to 93.

For miscellaneous rules and orders relating to irrigation in Orissa, *see* *ibid.*, pp. 203 *et seq.*

For rules and notifications issued under the Act for the Sone Canals, and for rules, instructions, notes, tables, circulars and other documents issued with reference to the Act for the same canals, *see* the Sone Canals Manual, 1900, pp. 26 to 182 and 204 *et seq.*

EXEMPTION FROM STAMP DUTY.—Bonds or mortgage-deeds executed by headmen nominated, under rules framed in accordance with section 99 of this Act, for the due performance of their duties under the Act, are exempted from stamp duty—*see* the Indian Stamp Act, 1899 (2 of 1899), Sch. I, Arts. 15, 57, in General Acts, 1899-03, Ed. 1904, pp. 45, 61.

EXCLUSION OF OTHER ACTS.—Nothing in the Bengal Embankment Act, 1882 (Ben. Act 2 of 1882), applies to any embankment, land or water-course which is under the operation of the present Act—*see* Ben. Act 2 of 1882, s. 91, in Vol. I, p. 483.

Nothing in the Bengal Embankment Act, 1873 (Ben. Act 6 of 1873), applies to any canal or flood-embankment as defined in the present Act—*see* s. 4, *post*, p. 84.

of 1876.]

THE BENGAL IRRIGATION ACT, 1876.

(Part I.—Preliminary.—Secs. 1-3.)

levy of rates for water so supplied, in the provinces subject to the Lieutenant-Governor of Bengal; It is hereby enacted :—

PART I.

PRELIMINARY.

1. This Act may be called the Bengal Irrigation Act, 1876 ;

Short title.

It shall take effect in those districts in the provinces subject to the Lieutenant-Governor of Bengal to which the said Lieutenant-Governor shall extend it by an order published in the Calcutta Gazette ; and shall commence on the day which shall be in such order provided for the commencement thereof.

Local extent.

Commencement.

2. [*Repeal of Acts.*] *Rep. by the Repealing and Amending Act, 1903 (1 of 1903).*

3. In this Act, unless there be something repugnant in the subject or context,—

Interpretation-clause.

(1) “canal” includes—

“Canal.”

- (a) all canals, channels and reservoirs hitherto constructed, maintained or controlled by Government for the supply or storage of water, or which may hereafter be so constructed, maintained or controlled ;
- (b) all works, embankments, structures, supply and escape-channels connected with such canals, channels or reservoirs ;
- (c) all village-channels as defined in clause (2) of this section ;
- (d) all drainage-works as defined in clause (3) of this section ;
- (e) any part of a river, stream, lake, natural collection of water or natural drainage-channel to which the Lieutenant-Governor has applied the provisions of Part II of this Act, or of which the water has been applied or used before the passing of this Act for the purpose of any existing canal ;
- (f) all lands on the banks of any canal as defined in articles (a), (b), (c), (d) and (e) of this clause, which have been acquired by Government :

(2) “village-channel” means any channel by which water is led from a canal directly into the fields to be irrigated, and includes all subsidiary works connected with any such channel, except the sluice or outlet through which water is supplied from a canal to such channel :

“Village-channel.”

(3) “drainage-work” means any work in connection with a system of irrigation which has been or may hereafter be made or improved by the Government for the purposes of the drainage of the country, whether under the provisions of Part IV of this Act or otherwise, and includes escape-channels

“Drainage-work.”

THE BENGAL IRRIGATION ACT, 1876.

[Ben. Act 3]

(Part I.—Preliminary.—Secs. 4, 5.)

from a canal, dams, weirs, embankments, sluices, groins and other works connected therewith, but does not include works for the removal of sewage from towns :

"Flood-embankment."

(4) "flood-embankment" means any embankment constructed or maintained by the officers of Government in connection with any system of irrigation-works for the protection of lands from inundation, or which may be declared by the Lieutenant-Governor to be maintained in connection with any such system; and includes all groins, spurs, dams and other protective works connected with such embankments :

"Collector."

(5) "Collector" means the head revenue-officer of a district, and includes any officer appointed by the Lieutenant-Governor to exercise all or any of the powers of a Collector under this Act :

"Court,"

(6) "Court" means, in the Regulation Provinces, a principal Civil Court of original jurisdiction ;

and, in the Non-Regulation Provinces, the Court of a Commissioner of a Division,

unless when the Lieutenant-Governor has appointed (as he is hereby empowered to do), either specially for any case, or generally within any specified local limits, a judicial officer to perform the functions of a Judge under this Act, and then the expression "Court" means the Court of such officer :

"Canal-officer."

(7) "canal-officer" means an officer appointed under this Act to exercise control or jurisdiction over a canal or any part thereof; and includes every officer to whom any of the functions of a canal-officer under this Act have been assigned by the Lieutenant-Governor :

"Section."

(8) "section" means a section of this Act :

"Owner,"

(9) "owner" includes every person having a joint interest in the ownership of the thing specified; and all rights and obligations which attach to an owner under the provisions of this Act shall attach jointly and severally to every person having such joint interest in the ownership.

Exemption from Bengal Embankment Act.
Power to appoint officers.

4. Nothing contained in the Bengal Embankment Act, 1873,[1] shall apply to any canal or flood-embankment as defined in this Act.

Ben. Act 6 of 1873,

5. The Lieutenant-Governor may from time to time declare, by notification in the Calcutta Gazette, the officers by whom, and the local limits within which, all or any of the powers or duties hereinafter conferred or imposed shall be exercised or performed.

[1] So much of Ben. Act 6 of 1873 as is unrepealed is printed in Vol. I, p. 418.

of 1876.]

THE BENGAL IRRIGATION ACT, 1876.

(Part II.—Of the Application of Water for Public Purposes.—Secs. 6-16.)

PART II.

OF THE APPLICATION OF WATER FOR PUBLIC PURPOSES.

6. Whenever it appears expedient to the Lieutenant-Governor that the water of any river or stream flowing in a natural channel, or of any lake or other natural collection of still water, should be applied or used by the Government for the purpose of any existing or projected canal,

Notification when water supply to be supplied for public purposes.

the Lieutenant-Governor may, by notification in the Calcutta Gazette, declare that the said water will be so applied or used after a day to be named in the said notification, not being earlier than three months from the date thereof.

7. At any time after the day so named, any canal-officer acting under the orders of the Lieutenant-Governor in this behalf may enter on any land and remove any obstructions, and may close any channels, and do any other thing necessary for such application or use of the said water.

Powers of canal-officer.

8. As soon as is practicable after the issue of such notification, the Collector shall cause public notice to be given at convenient places stating that the Government intends to apply or use the said water as aforesaid, and that claims for compensation in respect of the matters mentioned in section 11 may be made before him.

Notice as to claims for compensation.

A copy of sections 11, 12 and 13 shall be annexed to every such notice.

9. When any claim for compensation is made before the Collector in accordance with the last preceding section, the Collector shall issue a notice requiring all persons interested in the matter in respect of which compensation is claimed to appear personally or by agent before him at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interest in the property affected, and the amount and particulars of their claims to compensation for such interests.

Contents of notice.

The Collector shall also serve notice to the same effect on the occupier (if any) of the land entered on, and on such persons known or believed to be interested in the matter in respect of which compensation is claimed, or to be entitled to act for persons so interested, as reside within his district.

Notice to occupiers.

10. The Collector may also require any person on whom a notice may be served under the last preceding section, and who makes a claim for compensation in accordance therewith, to deliver to him a statement containing, so far as may be practicable, the name of every other person possessing any interest

Power to require statements as to name and interests.

THE BENGAL IRRIGATION ACT, 1876.

[Ben. Act 3

(Part II.—Of the Application of Water for Public Purposes.—Sec. 11.)

in the property affected or any part thereof as co-proprietor, sub-proprietor, mortgagee, tenant or otherwise, and of the nature of such interest, and of the rents and profits (if any) received or receivable on account thereof for the year next preceding the date of the statement.

Penalty for failure to comply.

If any person shall fail to comply within the time fixed by the notice with a requisition made under this section, the Collector may impose upon him such daily fine as he may think fit not exceeding fifty rupees; and such fine shall be payable daily until the requisition is complied with, and the Collector may proceed from time to time to levy the amount which has become due in respect of any such fine, notwithstanding that an appeal against the order imposing such fine may be pending:

Provided that, whenever the amount levied under any such order shall have exceeded five hundred rupees, the Collector shall report the case specially to the Commissioner, and no further levy in respect of such fine shall be made otherwise than by authority of the Commissioner.

Person required to make statements legally bound to do so. Damage for which compensation shall not be awarded.

Every person required to make or deliver a statement under this section shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 [1] of the Indian Penal Code.

45 of 1860.

11. No compensation shall be awarded for any damage caused by—

- (a) stoppage or diminution of percolation or floods;
- (b) deterioration of climate or soil;
- (c) stoppage of navigation, or of the means of rafting timber or watering cattle.

Matters in respect of which compensation may be awarded.

But compensation may be awarded in respect of any of the following matters:—

- (d) stoppage or diminution of supply of water through any natural channel to any defined artificial channel, whether above or under ground, in use at the date of the issue of the notification under section 6;
- (e) stoppage or diminution of supply of water to any work erected for purposes of profit on any channel, whether natural or artificial, in use at the date of the said notification;
- (f) stoppage or diminution of supply of water through any natural channel which has been used for purposes of irrigation within the five years next before the date of the said notification;

of 1876.]

THE BENGAL IRRIGATION ACT, 1876.

(Part II.—Of the Application of Water for Public Purposes.—Secs. 12-14.)

9 of 1871.

(g) damage done in respect of any right to a water-course or the use of any water to which any person is entitled under the Indian Limitation Act, 1871,[1] Part IV;

(h) any other substantial damage, not falling under any of the above clauses (a), (b) or (c), and caused by the exercise of the powers conferred by this Act, which is capable of being ascertained and estimated at the time of awarding such compensation.

Notwithstanding anything contained in clause (c), compensation may be awarded in respect of the loss of any tolls which were lawfully levied on any river or channel at the time of the issue of the notification mentioned in section 6.

Compensation for loss of tolls lawfully levied.

In determining the amount of compensation under this section, regard shall be had to the diminution in the market-value, at the time of awarding compensation, of the property in respect of which compensation is claimed; and, where such market-value is not ascertainable, the amount shall be reckoned at twelve times the amount of the diminution of the annual net profits of such property, caused by the exercise of the powers conferred by this Act.

Diminution in market-value to be considered.

9 of 1871.

No right to any such supply of water as is referred to in clauses (d), (e) or (f) of this section in respect of a work or channel not in use at the date of the notification, shall be acquired as against the Government, except by grant or under the Indian Limitation Act, 1871, [1] Part IV.

12. If any supply of drinking-water is substantially deteriorated or diminished by any works undertaken in accordance with a declaration made by the Lieutenant-Governor under section 6, the canal-officer shall be bound to provide within convenient distance an adequate supply of good drinking-water in lieu of that so deteriorated or diminished, and no person shall be entitled to claim any further compensation in respect of the said deterioration or diminution.

Compensation for loss of drinking-water.

13. No claim for compensation for any such stoppage, diminution or damage shall be entertained after the expiration of six months from such stoppage, diminution or damage, unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

Limitation of claims.

14. On the day fixed in the notice mentioned in section 9, the Collector shall proceed to inquire summarily into the claim and to determine the amount

Inquiry into claim and tender of compensation.

[1] These references to Act 9 of 1871 should now be read as if made to the Indian Limitation Act, 1877 (15 of 1877)—see section 2 of the latter Act, in General Acts, 1877-81, Ed. 1893, p. 76.

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[Ben. Act 3]

(Part II.—Of the Application of Water for Public Purposes.—Secs. 15-18.)

of compensation which in his opinion should be allowed therefor, and shall tender such amount to the persons interested who have attended in pursuance of the notice given under section 9.

Power to
summon
witnesses.

For the purpose of such inquiry the Collector shall have power to summon and enforce the attendance of witnesses and to compel the production of documents by the same means, and, as far as may be, in the same manner, as is provided in the case of a Civil Court under the Court of Civil Procedure.[1]

8 of 1882.

Postponement
of inquiry.

15. The Collector may, if no claimant attends pursuant to the notice, or if for any other cause he thinks fit, from time to time, postpone the inquiry to a day to be fixed by him.

Award in case
of compensa-
tion being
agreed on.

16. If the Collector and the persons interested agree as to the amount of compensation to be allowed, the Collector shall make an award under his hand for the same.

Award to be
filed and to
be evidence.

Such award shall be filed in the Collector's office, and shall be conclusive, as between the Collector and the persons interested, of the value of the said property and the amount of compensation allowed for the same.

Collector to
refer matter
to Court when
compensation
not accepted.

17. If the Collector and the persons interested do not agree as to the amount of compensation to be allowed, or if upon the said inquiry any question respecting the title to the property of which the value has been diminished, or any right thereto, or interest therein, arises between or among two or more persons making conflicting claims in respect thereof, the Collector shall refer the matter to the determination of the Court in manner hereinafter provided.

Collector to
record
particulars in
certain cases.

18. If, when the Collector proceeds to make the inquiry as mentioned in sections 14 and 15, no claimant attends, or if any person whom the Collector has reason to think interested does not attend, the Collector shall hold a proceeding and record the following particulars :—

- (a) the nature and extent of the property of which the value has been diminished and in respect of which compensation is claimed, and the character and extent of the damage done ;
- (b) the names of the persons whom he has reason to think interested in such property ;
- (c) the amount fixed by him as compensation ; and,
- (d) the grounds on which such amount was determined ;

And to place
amount of
compensation
in deposit.

and shall place the amount so fixed by him in deposit, there to be held on account of the persons interested, and shall issue a notice to the persons

[1] This reference should now be read as applying to the present Code of Civil Procedure (Act 14 of 1882) — see s. 3 of that Code, in General Acts, 1882-84, Ed. 1898, p. 264.

of 1876.]

THE BENGAL IRRIGATION ACT, 1876.

(Part II.—Of the Application of Water for Public Purposes.—Secs. 19-23.)

believed to be interested, informing them that the said amount has been deposited as required by this section, and that, should no application be made to the Court (as provided in the next succeeding section) within six weeks of the issue of the notice on the last of the persons named therein, the Collector will pay the amount to any persons legally authorized to receive and to give an acquittance for the same.

19. Any person on whom notice may be served under the last preceding section, and any person interested in any property in respect of which such notice has been issued, may, within six weeks of the service of such notice, apply to the Court stating his objection to the amount of compensation as fixed by the Collector under the last preceding section, and the amount which he claims as compensation.

Objections to amount of compensation fixed by Collector.

On receipt of such application the Court shall proceed to determine the amount of compensation to be paid on account of the claim and all other matters, as if a reference had been made to it under section 17.

20. In making reference under section 17 the Collector shall state, for the information of the Court, the particulars mentioned in section 18.

Procedure in making reference.

21. On receipt of a reference under section 17 the Court shall proceed, as far as may be practicable, in accordance with sections 19 to 23 (inclusive), and sections 26 to 36 (inclusive), of the Land Acquisition Act, 1870 : [1]

Procedure on receipt of reference under section 17.

10 of 1870.

Provided that, instead of the last clause of the said section 26, the following shall be read :—“The provisions of this section and of section 11 of the Bengal Irrigation Act, 1876, shall be read to every assessor in a language which he understands, before he gives his opinion as to the amount of compensation to be awarded.”

22. Where there are several persons interested, if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the award, whether such award be made by the Collector or by the Court, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment.

Particulars of apportionment to be specified.

23. When the amount of compensation has been settled under section 16, if any dispute arises as to the apportionment of the same or any part thereof, the Collector shall refer such dispute to the decision of the Court.

Disputes as to apportionment.

All costs entailed by such a reference, and the proceedings of the Court

[1] Act 10 of 1870 has been repealed and re-enacted by the Land Acquisition Act, 1894 (1 of 1894), and this reference should now be construed as a reference to the latter Act—see s. 2 (5) thereof, in General Acts, 1891-9*, Ed. 1899, p. 101.

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[Ben. Act 3

(Part II.—Of the Application of Water for Public Purposes.—Secs. 24-28.)

thereon, shall be paid by the parties who dispute the apportionment of the compensation, in such proportions as the Court may direct, and the Collector shall not be required to disburse any such costs, nor shall any such costs be recovered from the Collector.

**Determination
of proportions.**

24. When the amount of compensation has been settled by the Court, and there is any dispute as to the apportionment thereof, or when a reference to the Court has been made under the last preceding section, the Judge sitting alone shall decide the proportions in which the persons interested are entitled to share in such amount.

Appeal.

An appeal shall lie from every such decision to the High Court, unless the Judge whose decision is appealed from is not the District Judge, in which case the appeal shall lie, in the first instance, to the District Judge.

Every appeal under this section shall be presented within the time and in manner provided by the Code of Civil Procedure [1] for regular appeals in suits.

8 of 1859.

**Payment of
compensation.**

25. Payment of the compensation shall be made by the Collector in accordance with the award made by him under section 16; or the proceeding held by him under section 18, if no application be made to the Court as provided by section 19; or the award made by the Court or the decision of the Judge under section 21; or, in the case of an appeal, under section 24, in accordance with the decision in appeal, as the case may be.

**Government
not liable to
further claim.**

26. The amount of compensation fixed by any award, proceeding or decision, as specified in the last preceding section, shall be deemed to be the full amount payable by the Government in respect of the claim dealt with therein; and the Government shall not be liable for any further claim to any person whatever in respect of any matter which was the subject of such award, proceeding or decision; nor shall any such claim be made against the Government in respect of the payment of any portion of such compensation in accordance with any award, proceeding or decision as aforesaid, or in accordance with any decision of the Judge, or of the District Judge, or of the High Court in appeal, as the case may be, under section 24; and no suit shall be brought to set aside an award or decision under this Act.

**Liability of
person
receiving
compensation
not affected.
Abatement of**

27. Nothing contained in the last preceding section shall affect the liability of any person who may receive the whole or any part of any compensation awarded under this Act to pay the same to the person lawfully entitled thereto.

28. Every tenant holding under an unexpired lease, or having a right of

[1] This reference should now be read as applying to the present Code of Civil Procedure (Act 14 of 1882)—see s. 3 of that Code. In General Acts, 1882-84, Ed. 1898, p. 264.

of 1876.]

THE BENGAL IRRIGATION ACT, 1876.

(Part II.—Of the Application of Water for Public Purposes.—Secs. 29-32.)

occupancy, who is in occupation of any land at the time when any stoppage or diminution of the supply in respect of which compensation is allowed under section 11 takes place, may claim an abatement of the rent previously payable by him for the said land, on the ground that the interruption reduces the value of the holding :

rent on
interruption of
water-supply.

Provided that no part of the said compensation shall have been received by the said tenant in respect of such reduction in the value of his holding.

29. If a water-supply increasing the value of such holding is afterwards restored to the said land otherwise than at the cost of the tenant, the rent of the tenant may be enhanced, in respect of the increased value of such land due to the restored water-supply, to an amount not exceeding that at which it stood immediately before the abatement.

Enhancement
of rent on
restoration of
water-supply.

Such enhancement shall be on account only of the restored water-supply, and shall not affect the liability of the tenant to enhancement of rent on any other grounds.

30. All sums of money payable for compensation under this Part shall become due; three months after the claim for such compensation is made in respect of the stoppage, diminution or damage complained of, and simple interest at the rate of six *per centum per annum* shall be allowed on any such sum remaining unpaid after the said three months, except where the non-payment of such sum is caused by the wilful neglect or refusal of the claimant to receive the same :

Compensation
when due.

Interest.

Provided that the Collector may at any time invest the whole or any portion of the amount payable as compensation under this Act in any Government securities, and such securities shall be held by the Collector for the benefit of the persons interested, and the persons interested shall be bound to receive such securities with any interest which may have accrued upon them as full payment of the sum which the Collector paid for such securities, and of any sum which he may have paid as expenses incurred in purchasing the same, and of any interest which might otherwise have accrued on such sums.

Collector may
invest amount
deposited or
awarded in
Government
securities.

31. No compensation shall be claimable under this Act in respect of any works executed before it came into force, or of any damage, injury or loss caused by such works.

No compensa-
tion in respect
of prior works.

32. Service of any notice under this Part shall be made by delivering or tendering a copy thereof signed by the officer therein mentioned.

Service of
notice.

Whenever it may be practicable, the service of the notice shall be made on the person therein named.

THE BENGAL IRRIGATION ACT, 1876. [Ben. Act 3

(Part III.—Of the Maintenance of Canals.—Secs. 33-36.)

When such person cannot be found, the service may be made on any adult male member of his family residing with him; and, if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business; and, if such person has no ordinary place of residence within the district, service of any notice may be made by sending copy of such notice by post in a registered cover addressed to such person at his usual place of residence.

PART III.

OF THE MAINTENANCE OF CANALS.

Entry for inquiry.

33. Whenever it shall be necessary to make any inquiry or examination in connection with a projected canal or with the maintenance of an existing canal, or with a projected flood-embankment, or with the maintenance of an existing flood-embankment, any canal-officer or other person acting under the general or special orders of a canal-officer may enter upon such land as he may think necessary for the purpose, and may exercise all powers and do all things in respect of such lands as he might exercise and do if the Government had issued a notification under the provisions of section 4 of the Land Acquisition Act, 1870, [1] to the effect that land in that locality is likely to be 10 of 1870. needed for a public purpose; and may set-up and maintain water-gauges, and do all other things necessary for the prosecution of such inquiry and examination.

Power to inspect and regulate water-supply.

34. Such canal-officer or other person may also enter upon any land, building or village-channel on account of which any water-rate is chargeable for the purpose of inspecting or regulating the use of the water supplied, or of measuring the lands irrigated thereby or chargeable with a water-rate, and of doing all things necessary for the proper regulation and management of the canal from which such water is supplied.

Power to enter for repairs, and to prevent accidents.

35. In case of any accident being apprehended or happening to a canal or flood-embankment, any canal-officer, or any person acting under his general or special orders in this behalf, may enter upon any lands adjacent to such canal or flood-embankment, and may execute all works which may be necessary for the purpose of preventing such accident, or repairing any damage done.

Notice to

36. When such canal-officer or person proposes, under the provisions of

[1] Act 10 of 1870 has been repealed and re-enacted by the Land Acquisition Act, 1894 (1 of 1894), and this reference should now be construed as a reference to the latter Act—see s. 2 (3) thereof, in General Acts, 1891-98, Ed. 1898, p. 101.

of 1876.]

THE BENGAL IRRIGATION ACT, 1876.

(Part III.—Of the Maintenance of Canals.—Secs. 37-39.)

either of the three last preceding sections, to enter into any building or enclosed court or garden attached to a dwelling-house not supplied with water flowing from any canal, and not being adjacent to a flood-embankment, he shall previously give to the occupier of such building, court or garden such reasonable notice as the urgency of the case may allow.

occupier of building, etc.

37. In every case of entry upon any land or building under section 7, section 33, section 34 or section 35, the canal-officer or person making the entry shall ascertain and record the nature of any crop, tree, building or other property to which damage has been done, and the extent of the damage done to any such property, and shall tender compensation to the proprietors or occupiers for all damage done to the same by the entry or by any works executed.

Compensation for damage to land,

If such tender is not accepted, the canal-officer shall refer the matter to the Collector, who shall thereupon give notice in writing to the person interested in such land and to the canal-officer, requiring them to attend before him, on a date to be fixed in the notice, for the purpose of making inquiry as to the amount of compensation.

38. After such inquiry as he may think necessary, the Collector shall decide the amount of compensation payable; and such decision shall be subject to an appeal to the Commissioner of the Division:

Appeal from Collector's decision to Commissioner.

Provided that such appeal be presented to the Commissioner, or to the Collector for transmission to the Commissioner, within thirty days of the decision appealed against.

If no such appeal be preferred, the decision of the Collector, or, if such appeal be preferred, the decision of the Commissioner, shall be final and conclusive.

39. Suitable means of crossing canals constructed or maintained at the cost of Government shall be provided at such places as the Lieutenant-Governor thinks necessary for the reasonable convenience of the inhabitants of the adjacent lands; and suitable bridges, culverts or other works shall be constructed to prevent the drainage of the adjacent lands being obstructed by any canal.

Government to provide means of crossing canals and of drainage.

On the completion of any canal or of any convenient section of any canal the Collector, after causing such inspection to be made as may be necessary, shall certify to the Government that suitable and sufficient means of crossing the canal, and suitable and sufficient means of drainage as aforesaid, have been provided; or shall report in what respects the provision made for the

Collector to certify to Government that means of crossing canals and drainage have been provided.

THE BENGAL IRRIGATION ACT, 1876. [Ben. Act 3]

(Part IV.—Of Drainage.—Secs. 40-43.)

above purposes is defective; and if, at any time after he shall have given such certificate, it shall be brought to his notice that the provision made as above has proved insufficient, the Collector shall cause inquiry to be made into the circumstances of the case, and, if the statement is established, shall report his opinion thereon for the consideration of the Lieutenant-Governor, and the Lieutenant-Governor shall cause such measures in reference thereto to be taken as he thinks proper.

PART IV.

OF DRAINAGE.[1]

Lieutenant-Governor may prohibit formation of obstructions within certain limits.

40. Whenever it appears to the Lieutenant-Governor that injury to the public health or public convenience, or to any canal, or to any land for which irrigation from a canal is available, has arisen or may arise from the obstruction of any river, stream or natural drainage-course, the Lieutenant-Governor may, by notification published in the Calcutta Gazette, prohibit, within limits to be defined in such notification, the formation of any such obstruction, or may, within such limits, order the removal or other modification of such obstruction.

Thereupon so much of the said river, stream or natural drainage-channel as is comprised within such limits shall be held to be a drainage-work as defined in section 3.

Canal-officer may issue notice to person causing obstructions.

41. The canal-officer or other person authorized by the Lieutenant-Governor in that behalf may, after such publication, issue an order to the person causing or having control over any such obstruction to remove or modify the same within a time to be fixed in the order.

Canal-officer may cause obstructions to be removed.

42. If, within the time so fixed, such person does not comply with the order, the canal-officer may cause the obstruction to be removed or modified; and if the person to whom the order was issued does not, when called upon, pay the expenses of such removal or modification, such expenses shall be recoverable as a demand [2] * * *

When drainage-works necessary, Lieutenant-Governor may order

43. Whenever it appears to the Lieutenant-Governor that any drainage-works are necessary for the public health, or for the improvement or proper cultivation or irrigation of any lands in districts to which the provisions of the Bengal Embankment Act, 1873, [3] do not apply, or that protection from floods

Ben. Act 6 of 1873.

[1] For further enactments as to drainage, see the head "Drainage" in Vol. I, p. 344.

[2] The reference to Ben. Act 7 of 1868, which was repealed by the Public Demands Recovery Act, 1880 (Ben. Act 7 of 1880), is omitted. As to recovery of "demands," see now the Public Demands Recovery Act, 1895 (Ben. Act 1 of 1895), ss. 7 (d) (ii.) and 8, in Vol. IV of this Code.

[3] So much of Ben. Act 6 of 1873 as is unrepealed is printed in Vol. I of this Code, p. 418.

of 1876.]

THE BENGAL IRRIGATION ACT, 1876.

(Part IV.—Of Drainage.—Part V.—Of Village-channels.—Secs. 44-47.)

or other accumulations of water, or from erosion by a river, is required for any lands, scheme to be drawn up and carried out.

the Lieutenant-Governor may cause a scheme for such works to be drawn up and carried into execution. and the persons authorized by the Lieutenant-Governor to draw up and execute such scheme may exercise in connection therewith all or any of the powers conferred on canal-officers by sections 33, 34 and 35, and shall be liable to any or all of the obligations imposed upon canal-officers by Sections 36 and 37.

44. Whenever, in pursuance of a notification made under section 40, any obstruction is removed or modified ; Disposal of claims to compensation.

or whenever any drainage-work is carried out under the last preceding section,

all claims for compensation on account of any loss consequent on the removal or modification of the said obstruction, or the construction of such work, may be made before the Collector, and he shall deal with the same in the manner provided in Part II ; but no compensation shall be allowed for any damage arising from increase of percolation.

45. No such claim shall be entertained after the expiration of six months from the occurrence of the loss complained of, unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period. Limitation of such claims.

PART V.

OF VILLAGE-CHANNELS.

46. " Person " in this Part includes any number of persons acting jointly. " Person " defined.

47. The canal-officer shall keep a register of all village-channels, whether already existing or constructed under this Act, and shall note thereon in respect of every village-channel whether it is a public channel maintained at the cost of the Government, or a private channel maintained at the cost of the owners ; and shall register the names of the owners of every such private channel. Register of village-channels to be kept.

A village-channel made as an extension of, or a branch to, an existing village-channel shall be registered as a separate village-channel ; and so much of the length of any village-channel as lies within the limits of any one village or mauza shall be entered on the register as a separate village-channel. Extension or branch of village channel to be registered.

Every section of a village-channel so separately entered on the register shall be deemed to be a separate village-channel in respect of all rights and liabilities imposed by this Act :

Canal-officer may register as one village-channel section including portions lying within two or more villages.

Provided always that, whenever it shall seem fit to the canal-officer for any special reason to enter upon his register as one village-channel a section of a village-channel which includes portions lying within two or more villages or manzas, the canal-officer may, with the consent of the Collector obtained in writing, register such section as one village-channel, and such section shall be deemed to be one village-channel in respect of all rights and liabilities imposed by this Act.

Person may acquire existing village-channel by agreement.

48. Any person may, with the consent of the canal-officer, acquire the property in an existing village-channel for the purpose of improving or maintaining it—

(a) by taking over any village-channel belonging to Government ;

(b) by transfer of a village-channel from the owner thereof by private agreement.

Construction of new village-channel.

49. Any person may, with the permission of a canal-officer, construct a new village-channel if he has obtained the consent of the owners and occupiers of the land required therefor.

Application by person desiring construction of new village-channel.

50. Any person desiring the construction of a new village-channel, but being unable or unwilling to construct it under a private arrangement with the owners and occupiers of the land affected, as mentioned in the last preceding section, may apply in writing to the canal-officer stating—

that he desires the said canal-officer, in his behalf and at his cost, to do all things necessary for constructing such village-channel ;

that he is ready to defray all costs necessary for acquiring the land and constructing such village-channel.

Procedure when canal-officer considers construction of village-channel expedient.

51. If the canal-officer considers the construction of such village-channel expedient, he may call upon the applicant to deposit any part of the expense such officer may consider necessary,

and, upon such deposit being made, shall cause inquiry to be made into the most suitable alignment for the said village-channel,

and shall mark out the land which, in his opinion, it will be necessary to occupy for the construction thereof,

and shall forthwith publish a notification in every village through which the village-channel is proposed to be taken that so much of such land as is situated within such village has been so marked out,

and shall send a copy of such notification to the Collector of every district in which any part of such land is known to be situate for publication on such land.

of 1876.]

THE BENGAL IRRIGATION ACT, 1876.

(Part V.—Of Village-channels.—Secs. 52-54.)

Such notification shall also call upon any person who wishes to be admitted a joint owner of such village-channel to make his application in that respect within thirty days of the publication of such notification.

Notice to person wishing to be joint owner.

If any such applicant appears, and his application is admitted, he shall be liable to pay his share in the construction of such village-channel and in the cost of acquiring such land, and shall be an owner of such village-channel constructed.

10 of 1870.

52. On receipt of copy of such notification, the Collector shall proceed to acquire such land under the provisions of the Land Acquisition Act, 1870, [1] as if a declaration had been issued by the Government for the acquisition thereof under section 6 of that Act, and as if the Government had thereupon directed the Collector to take order for the acquisition of such land under section 7 of the said Act, and (if necessary) as if the Government had issued orders for summary possession being taken under section 17 of the said Act.

Collector to acquire land.

53. On being put in possession of the land the canal-officer shall construct the required village channel; and on its completion shall give to the applicant notice thereof, and of any sum payable by him on account of the cost of acquiring the land and constructing the village-channel.

Procedure after construction of village-channel.

On such notice being given, such sum shall be due from the applicant to the canal-officer.

On receipt of payment in full of all expenses incurred, the canal-officer shall make over possession of such village-channel to such applicant.

54. Whenever a canal-officer considers that the transfer of a village-channel from the owner is necessary for the proper management of the irrigation from such village-channel, he may cause a notice to be served on the registered owner to appear on a certain day, not less than fifteen days after service of notice, and to prefer any objection to such transfer.

Canal-officer may direct transfer of village-channel.

After hearing such objection, the canal-officer may order that such village-channel shall be transferred to such person as he may think fit, and that such person be registered as owner of the said village-channel:

Provided that no person shall be registered as the owner of a village-channel under this section, unless he has expressed in writing his willingness to be so registered, and until he has paid to the canal-officer such sum as may be fixed by the canal-officer under section 56.

[1] Act 10 of 1870 has been repealed and re-enacted by the Land Acquisition Act, 1894 (1 of 1894), and this reference should now be construed as a reference to the latter Act—see s. 2 (3) thereof, in General Acts, 1891-98, Ed. 1899, p. 101.

THE BENGAL IRRIGATION ACT, 1876.

[Ben. Act 3]

(Part V.—Of Village-channels.—Secs. 55-59.)

Person may
be admitted
joint owner
of existing
village-
channel.

55. Any person wishing to become the joint owner of an existing village-channel may petition the canal-officer to that effect, and on receipt of such petition the canal-officer may, if he think fit, issue a notice as provided in the last preceding section upon the registered owner, and, after hearing any objection which the registered owner may prefer against the admission of such applicant to be a joint owner, may direct that the applicant shall be registered as such joint owner.

Canal-officer
to fix sums
payable on
transfer or
acquisition
of joint
ownership.

56. When deciding the question of transfer or of admission to joint ownership under either of the two last preceding sections, the canal-officer shall also determine what amount shall be paid—

- as the costs of the proceedings ;
- as compensation to the previous owners ;

and the amount so determined shall be due by the transferee or the person admitted to registry as a joint owner, as the case may be ; and, on payment of such amount, the village-channel shall be transferred, or the applicant shall be registered as owner or as a joint owner thereof, as the case may be.

Canal-officer
may fix rent
for a village-
channel
transferred.
Ownership
of village-
channel.

57. Instead of awarding payment of compensation under the last preceding section, the canal-officer may fix an amount of rent to be paid annually to the previous owners by the persons to whom the village-channel is transferred.

58. Every person—

- (a) acquiring a village-channel as provided in section 48 ; or
- (b) constructing a village-channel as provided in section 49 ; or
- (c) receiving possession of a village-channel as provided in section 53 ; or
- (d) acquiring a village-channel by transfer as provided in section 54 ; or
- (e) being admitted to registration as joint owner in a village-channel as provided in section 55,

shall be deemed to be an owner of such village-channel.

59. Every owner of a village-channel shall be bound—

- (a) to construct and maintain all works necessary for the passage across such village-channel of canals, village-channels, drainage-channels and public roads existing at the time of its construction, and of the drainage intercepted by it, and for affording proper communications across it for the convenience of the occupants of neighbouring lands ;

Obligations
and rights of
owner
of village-
channel.

of 1876.]

THE BENGAL IRRIGATION ACT, 1876.

(Part V.—Of Village-channels.—Secs. 60-63.)

(b) to maintain such village-channel in a fit state of repair for the conveyance of water ;

(c) to allow the use of it to others on such terms as may be declared equitable by the canal-officer as hereinafter prescribed ;

and shall be entitled—

(d) to have a supply of water by such village-channel at such rates and on such terms as are prescribed by the rules made by the Lieutenant-Governor under section 99 ;

(e) to receive such rent for the use of the village-channel by other persons as the canal-officer may award him.

60. If the owner of a village-channel fails to fulfil the obligations mentioned in clauses (a) and (b) of the last preceding section, the canal-officer may require him by notice to execute the necessary works or repairs within a period not being less than fifteen days, and in the event of failure may execute them on his behalf ;

If owner of village-channel fails to execute work or repair, canal-officer may do so.

and all expenses incurred by the execution of such works or repairs shall be a sum due by such owner to Government ;

and, if any such owner who has already failed on one occasion to execute such works or repairs when required to do so, and has left them to be executed on his behalf by the canal-officer, shall again fail to execute any such works or repairs when required to do so ; or if any such owner shall refuse in any respect to fulfil the obligation mentioned in clause (c) of the last preceding section, after having been required to fulfil the same by a notice in writing from the canal-officer, the canal-officer may strike such village-channel off the register, and so disqualify it to be any longer a medium for the conveyance of canal-water.

61. Any owner may resign his interest in a village-channel :

Provided such resignation be duly registered in the office of the canal-officer.

Resignation of ownership.

62. Any owner of a village-channel may, with the consent of the canal-officer, transfer his interest to any other person :

Owner may transfer interest.

Provided that the liabilities of the person so transferring shall not cease till such transfer is registered in the office of the canal-officer.

63. If any owner of a village-channel dies, his legal representative may apply for registration in his stead.

Procedure on death of owner of village-channel.

If no such application for registry be made within six weeks from the death of the said owner, the remaining registered owners of the village-channel, if any, shall be deemed to be owners of the entire interest in the village-channel,

(Part V.—Of Village-channels.—Secs. 64-69.)

until some other person shall have established his claim to be registered as owner in place of the deceased.

If the deceased shall have been the sole registered owner, the canal-officer shall be deemed to be his representative for the purposes of this Part, and shall exercise all rights and be bound by all liabilities which attached to the deceased in respect of his ownership of the said village-channel, until some person shall have established his right to be registered as owner thereof in place of the deceased; and the canal-officer shall account to such person for all sums received and expended in the exercise of the rights and discharge of the liabilities which attached to the deceased in respect of such ownership.

Procedure
when person
applies for
registration
in lieu of
deceased

64. When any person applies for registration under the three last preceding sections, the canal-officer shall serve notice on the other registered owners to prefer any objection to the resignation, transfer or succession within fifteen days, and, if no such objection shall be made, or if the objections made be deemed invalid, shall order such resignation, transfer or succession to be registered.

Interest of
owners equal
unless unequal
interests re-
gistered.

65. All joint owners of a village-channel shall be held to have an equal interest in it, unless, with the permission of the canal-officer, they register specific unequal interests.

Supply of
water to
person not
owner.

66. Any person not an owner of a village-channel, desiring to have a supply of water through such village-channel, may make a private arrangement with the owners for the conveyance of water, or may apply to the canal-officer for authority to use such village-channel.

for
Canal-officer
may authorize
supply.

67. On receipt of such application the canal-officer shall serve notice on the owners to show cause why such permission should not be granted, and, if no objection be raised, or if any objections be raised and found invalid, shall authorize the conveyance of such supply on such conditions as may appear to him equitable.

Canal-officer
to fix rent
of village-
channel.

68. The canal-officer shall also fix a sum as rent to be paid for the use of such village-channel to the owner.

Such rent may be in the form of a percentage on the water-rate of the person using the village-channel, or otherwise, as may be fixed by the canal-officer.

Owner of
village-chan-
nel receiving
supply
through
another
village-
channel.

69. The owner of a village-channel which receives its water through another village-channel may, at the discretion of the canal-officer, either be declared a joint owner of such other village-channel, or may be required to pay rent for the use of the same to the owner thereof, as provided in the last preceding section.

of 1876.]

THE BENGAL IRRIGATION ACT, 1876.

(Part V.—Of Village-channels.—Part VI.—Of the Supply of Water.—
Secs. 70-76.)

70. All rent payable under either of the two last preceding sections shall be deemed to be due in the same instalments and at the same periods as the water-rate is due, or in such other instalments and at such other dates as the canal-officer may direct, and may be collected by the canal-officer on behalf of the person entitled to it, if the canal-officer thinks fit.

Instalments
in which rent
is payable.

71. Any canal-officer collecting rent under the last preceding section on behalf of any person entitled thereto shall be bound to pay to the person entitled to the same no more than the amount actually collected by him as rent.

Canal-officer
to pay no
more than
amount
collected.

72. No land acquired under this Part for a village-channel shall be used for any other purpose without the consent of the canal-officer previously obtained.

Land acquired
not to be
for other
purpose.

73. Every sum declared to be due under this Part shall be recoverable by the canal-officer on behalf of the Government or of the person entitled to receive the same, and shall be held to be a demand * * * * * [1].

Dues how
recovered.

PART VI.

OF THE SUPPLY OF WATER.

74. Every person desiring that water shall be supplied to his land from a canal shall present a written application to that effect to the canal-officer, in the form given in Schedule B hereto annexed, or in a similar form, binding himself by the rules made by the Lieutenant-Governor under the powers vested in him by this Act; and no person shall be liable to pay any rate or due whatever, on account of water supplied to his land with the permission of the canal-officer, otherwise than on such application, nor shall water be supplied otherwise than on such application.

Water
supplied on
written
application
only.

75. If the application mentioned in the last preceding section be granted by the canal-officer, the canal-officer shall cause his permission to be recorded in the form given in Schedule C hereto annexed, or in some similar form, binding himself by the rules made by the Lieutenant-Governor as aforesaid.

Written
permission
to be given.

76. All rules made by the Lieutenant-Governor under section 99 shall be consistent with the following conditions:—

Rules subject
to conditions
as to—
power to stop
water-supply;

(a) The canal-officer may not stop the supply of water to any village—

[1] The reference to Ben. Act 7 of 1868, which was repealed by the Public Demands Recovery Act, 1880 (Ben. Act 7 of 1880), is omitted. As to recovery of "demands", see now the Public Demands Recovery Act, 1895 (Ben. Act 1 of 1895), ss. 7 (d) (ii) and 8, in Vol. IV of this Code.

THE BENGAL IRRIGATION ACT, 1876.

[Ben. Act 3

(Part VI.—Of the Supply of Water.—Sec. 76.)

channel, or to any person who is entitled to such supply, except in the following cases :—

- (1) whenever and so long as it is necessary to stop such supply for the purpose of executing any work ordered by competent authority ;
- (2) whenever and so long as any village-channel is not maintained in such repair as to prevent the wasteful escape of water therefrom ;
- (3) whenever and so long as it is necessary to do so in rotation to supply the legitimate demands of other persons entitled to water ;
- (4) whenever and so long as it may be necessary to stop the supply in order to prevent the wastage or misuse of water :

to
compensation
in case of
failure or
stoppage of
supply ;

(b) No claim shall be made against the Government for compensation in respect of loss caused by the failure or stoppage of the water in a canal, by reason of any cause beyond the control of the Government, or of any repairs, alterations or additions to the canal, or of any measures taken for regulating the proper flow of water therein, or for maintaining the established course of irrigation which the canal-officer considers necessary ; but the person suffering such loss shall be entitled to such remission of the ordinary charges payable for the use of the water as is authorized by the Lieutenant-Governor :

claims on
account of
interruption
from other
causes ;

(c) If the supply of water to any land irrigated from a canal be interrupted otherwise than in the manner described in the last preceding clause, the occupier or owner of such land may present a petition for compensation to the Collector for any loss arising from such interruption, and the Collector shall award to the petitioner reasonable compensation for such loss :

duration of
supply ;

(d) When the water of a canal is supplied for the irrigation of a single crop, the permission to use such water shall be held to continue only until that crop comes to maturity, and to apply only to that crop ; but, if it be supplied for irrigating two or more crops to be raised on the same land within the year, such permission shall be held to continue for one year from the commencement of the irrigation, and to apply to such crops only as are matured within that year :

sale or
sub-letting of
right to use
canal-water ;
contracts for
water
transferable
with land.

(e) No person entitled to use the water of any canal, or any work, building or land appertaining to any canal, shall sell or sub-let or otherwise transfer his right to such use without the permission of the canal-officer, but all contracts made between Government and the owner or occupier of any immovable property, as to the supply of canal-water to such property, shall be transferable therewith, and shall be presumed to have been so transferred whenever a transfer of such property takes place.

of 1876.]

THE BENGAL IRRIGATION ACT, 1876.

(Part VI.—Of the Supply of Water.—Part VII.—Of Water-rates.—
Secs. 77-82.)

77. On application being made for a supply of water to be used for purposes other than those of irrigation, the canal-officer may give permission for water to be taken for such purposes under such special conditions and restrictions as to the limitation and control of the supply as he shall think proper to impose in each case.

Canal-officer may supply water for purposes other than those of irrigation.

PART VII.

OF WATER-RATES.

78. The rates to be charged for canal-water supplied for purposes of irrigation shall be determined by the Lieutenant-Governor, and all persons accepting the water shall pay for it accordingly.

Charge for water how determined.

79. If water supplied through a village-channel be used in an unauthorized manner, and if the person by whose act or neglect such use has occurred cannot be identified,

Liability when person using water unauthorizedly cannot be identified.

the persons on whose land such water has flowed, if such land has derived benefit therefrom,

or, if no land has derived benefit therefrom, all the persons chargeable in respect of the water supplied through such village-channel in respect of the crop then on the ground,

shall be liable to the charges made for such use, as determined by the Lieutenant-Governor under section 99.

80. If water supplied through a village-channel be suffered to run to waste, and if, after inquiry by the canal-officer, the person through whose act or neglect such water was suffered to run to waste cannot be discovered, all the persons chargeable in respect of the water supplied through such village-channel for the crop then on the ground shall be jointly liable for the charges made in respect of the water so wasted, as determined by the Lieutenant-Governor under section 99.

Liability when water runs to waste.

All questions arising under this and the last preceding section shall be decided by the canal-officer, subject to the provisions of section 91.

81. All charges for the unauthorized use or for waste of water shall be deemed to be water-rate due on the crop, and may be recovered as such water-rate in addition to any penalties incurred on account of such use or waste.

Charges recoverable in addition to penalties.

82. The canal-officer may enter into an agreement with any person for the

Power to

THE BENGAL IRRIGATION ACT, 1876.

[Ben. Act 3

(Part VII.—Of Water-rates.—Part VIII.—Of Jurisdiction.—Secs. 82-87.)

contract for
collection of
canal-dues.

collection and payment to the Government by such person of any sum payable under this Act by a third party.

Sum payable
under this
Part deemed
to be rent.

83. Any sum lawfully due under this Part, either to the Government, or to any person who has entered into an agreement to collect dues for the Government and certified by the canal-officer to be so due, shall be deemed to be rent payable on a patta or engagement in respect of the land irrigated, and shall be recoverable as such by the person to whom it is payable :

Provided that the claim (if any) for rent in respect of such land shall have priority over any claim for arrears of water-rate so far as regards recovery of rent by the exercise of the power of distraint.

Person who
distraints may
be called on
to produce
account.

84. If any person distrains half or more than half of any crop on account of which water-rate is due, such person shall be bound, on requisition by the canal-officer, to furnish him with an account showing how the produce thus distrained has been appropriated in payment of such rent, and the canal-officer shall be entitled to challenge such account before any Court competent to try suits for arrears of rent in respect of the land in question, and such Court, if it finds that the value of the crop distrained was in excess of the amount of rent which had been due for a period not longer than a year, together with the costs of the distraint, may require the distrainer to pay the water-rate due on such crop.

Arrears of
water-rate
deemed to be
demands.

85. Every arrear of water-rate which is due to Government, and every sum due to Government by any person on account of collections of water-rate, and every sum due to such person on account of water-rate and certified by the canal-officer to be so due, shall also be held to be a demand * * * [1].

Sections not
applying to
fines.

86. Nothing in sections 82 to 85 (inclusive) applies to fines.

PART VIII.

OF JURISDICTION.

Settlement of
disputes as to
mutual rights
and liabilities
of persons
interested in
village-chan-
nel.

87. Whenever a dispute arises between two or more persons in regard to their mutual rights or liabilities in respect of the use, construction or maintenance of a village-channel, any such person interested may apply in writing to the canal-officer stating the matter in dispute.

Such officer shall thereupon give notice to the other persons interested that, on a day to be named in such notice, he will proceed to inquire into the said

[1] The reference to Bengal Act 7 of 1868, which was repealed by the Public Demands Recovery Act, 1880 (Ben. Act 7 of 1880), is omitted. As to recovery of "demands" see now the Public Demands Recovery Act, 1895 (Ben. Act 1 of 1895), ss. 7 (d) (ii) and 8, in Vol. IV of this Code.

of 1876.]

THE BENGAL IRRIGATION ACT, 1876.

(Part VIII.—Of Jurisdiction.—Secs. 88-92.)

matter, and, after such inquiry, he may pass his order thereon, or may transfer the matter to the Collector, who shall thereupon inquire into and pass his order on the said matter.

88. Whenever any dispute arises among joint owners of a village-channel as to their shares of expense or as to the amounts severally contributed, or as to failure on the part of any owner to contribute his share, the matter may be decided after inquiry by the canal-officer or Collector, as provided in the last preceding section.

Dispute as to shares and payments.

89. Any order passed by the Collector, under either of the two last preceding sections, and, subject to the provisions of section 91, any such order passed by a canal-officer, shall remain in force until set aside by the decree of a Civil Court, and may be executed by any canal-officer as if it were a decree of the Civil Court.

Order passed by Collector and canal-officer to remain in force until set aside by Civil Court.

90. All suits arising out of the exercise of the power of distraint for recovery of water-rates,

Jurisdiction as to suits arising out of powers of distraint.

or out of any acts done under colour of the exercise of the said power of distraint,

or by persons in receipt of the water-rates against any agents employed by them in the collection of such water-rates, or the sureties of such agents for money received or for accounts kept by such agents in the course of such employment, or for papers in their possession,

shall be cognizable by the same Court or authority as would have jurisdiction if such water-rates were rent due for the land irrigated.

91. Every order passed by a canal-officer under Part V, Part VI, Part VII or Part VIII of this Act shall be appealable to the Collector, provided that the appeal be presented within thirty days of the date on which the canal-officer made the order appealed against; and no appeal shall lie against any proceeding or order of the Collector under this Act, except as otherwise expressly provided in this Act, but all such proceedings and orders shall be subject to the supervision and control of the Commissioner of the Division and of the Board of Revenue, who may pass such order thereon as they may respectively think fit.

Appeal and supervision.

92. Any officer empowered under this Act to conduct any inquiry may exercise all such powers connected with the summoning and examining of witnesses, as are conferred on Civil Courts by the Code of Civil Procedure; [1] and every such inquiry shall be deemed a judicial proceeding.

Power to summon and examine witnesses.

8 of 1859.

[1] This reference should now be read as applying to the present Code of Civil Procedure (Act 14 of 1882)—see s. 8 of that Code, in General Acts, 1882-84, Ed. 1898, p. 264.

PART IX.

OF OFFENCES AND PENALTIES.

Offences
under Act.

93. Whoever, voluntarily and without proper authority, does any of the acts following, that is to say :—

- (1) damages, alters, enlarges or obstructs any canal or drainage-work ;
- (2) interferes with, increases or diminishes the supply of water in, or the flow of water from, through, over or under, any canal or drainage-work, or by any means raises or lowers the level of the water in any canal or drainage-work ;
- (3) being responsible for the maintenance of a village-channel, or using a village-channel, neglects to take proper precautions for the prevention of waste of the water thereof, or interferes with the authorized distribution of the water therefrom, or uses such water in an unauthorized manner ;
- (4) corrupts or fouls the water of any canal so as to render it less fit for the purposes for which it is ordinarily used ;
- (5) destroys, defaces or moves any level-mark or water-gauge fixed by the authority of a public servant ;
- (6) destroys or removes any apparatus, or part of any apparatus, for controlling or regulating the flow of water in any canal or drainage-work ;
- (7) passes, or causes animals or vehicles to pass, in or across any of the works, banks or channels of a canal contrary to rules made under this Act after he has been desired to desist therefrom ;
- (8) without the permission of the canal-officer causes, or knowingly and wilfully permits, any cattle to graze upon any flood-embankments, or tethers, or causes or knowingly and wilfully permits any cattle to be tethered upon any such embankments, or roots up any grass or other vegetation growing on any such embankments, or removes, cuts or in any way injures or causes to be removed, cut or otherwise injured, any trees, bushes, grass or hedge intended for the protection of such embankment ;
- (9) violates any rule made under the Act, for breach whereof a penalty may be incurred,

shall, in case the offence shall not amount to mischief within the meaning of the Indian Penal Code,^[1] and on conviction before a Magistrate, be liable to a fine not exceeding fifty rupees, or to imprisonment for a term not exceeding one month, or to both.

45 of 1860.

[1] See Act 45 of 1860, s. 425, in General Acts, 1834-67, Ed. 1899, p. 352.

of 1876.]

THE BENGAL IRRIGATION ACT, 1876.

(Part IX.—Of Offences and Penalties.—Secs. 94-97.)

94. Whoever, without the authority of the canal-officer,—

Further offences.

(1) pierces or cuts through, or attempts to pierce or cut through, or otherwise to damage, destroy or endanger the stability of, any flood-embankment ;

(2) opens, shuts or obstructs, or attempts to open, shut or obstruct, any sluice in any such embankment ;

(3) makes any dam or other obstruction for the purpose of diverting or opposing the current of a river on the banks whereof are flood-embankments, or refuses or neglects to remove any such dam or obstruction when so required by the canal-officer,

shall, in case the offence shall not amount to mischief within the meaning of the Indian Penal Code, [1] and on conviction before a Magistrate, be liable to a fine not exceeding two hundred rupees, or to imprisonment for a term not exceeding six months.

45 of 1860.

Penalty.

95. Whenever any person is convicted of an offence under either of the last two preceding sections, the convicting Magistrate may order that he shall remove the obstruction or repair the damage in respect of which the conviction is held within a period to be fixed in such order.

Obstruction to be removed and damage repaired.

If such person neglects or refuses to obey such order within the fixed period, the canal-officer may remove such obstruction, or repair such damage, and the cost of such removal or repair shall be levied from such person by the Collector [2] [under the procedure provided by the Public Demands Recovery Act, 1895, for the recovery of public demands.]

Ben. Act 1 of 1895.

96. Any person in charge of, or employed upon, any canal may remove from the lands or buildings belonging thereto, or may take into custody without a warrant and take forthwith before a Magistrate or to the nearest police-station, to be dealt with according to law, any person who within his view commits any of the following offences :—

Persons employed on canal may take offenders into custody.

(1) wilfully damages or obstructs any canal ;

(2) without proper authority interferes with the supply or flow of water in or from any canal or in any river or stream, so as to make dangerous or render less useful any canal.

97. Nothing herein contained shall prevent any person from being prosecuted under any other law for any offence punishable under this Act :

Saving of prosecution under other laws.

Provided that no person shall be punished twice for the same offence.

[1] See Act 45 of 1860, s. 425, in General Acts, 1831-67, Ed. 1896, p. 352.

[2] These words and figures in square brackets in s. 95 were substituted for the words and figures "as a demand under section 1 of the aforesaid Ben. Act 7 of 1866" by the Repealing and Amending Act, 1903 (1 of 1903), printed in Vol. I, p. 18.

(Part IX.—Of Offences and Penalties.—Part X.—Of Subsidiary Rules.—
Secs. 98, 99.)

Compensation
to person in-
jured.

98. Whenever any person is fined for an offence under this Act, the Magistrate may direct that the whole or any part of such fine may be paid by way of compensation to any person injured by such offence, or to any person who gave information leading to the detection of such offence, or to the conviction of the offender.

PART X.

OF SUBSIDIARY RULES.

Power to
make, alter
and cancel
rules.

99. The Lieutenant-Governor may, from time to time, make rules to regulate the following matters :—

- (a) the proceedings of any officer who, under any provision of this Act, is required or empowered to take action in any matter ;
- (b) the cases in which, the officers to whom, and the conditions subject to which, orders and decisions given under any provision of this Act, and not expressly provided for as regards appeal, shall be appealable ;
- (c) the person by whom, the time, place or manner at or in which, anything for the doing of which provision is made in this Act shall be done ;
- (d) the amount of any charge made under this Act ;
- (e) and generally to carry out the provisions of this Act.

The Lieutenant-Governor may, from time to time, alter or cancel any rules so made.

Publication of
rules.

Such rules, alterations and cancelment shall be published in the Calcutta Gazette, and shall thereupon have the force of law :

Provided that no rules shall be made by the Lieutenant-Governor under the powers conferred on him by this section until a draft [1] of the same shall have been published in the Calcutta Gazette for one month, after which time the Lieutenant-Governor may pass such rules as originally published, or with such alterations, additions and omissions as he may think fit.

*Schedule A.—[Repeal of Bengal Acts 8 of 1867 and 6 of 1869.] Rep.
by the Repealing and Amending Act, 1903 (1 of 1903).*

[1] As to such drafts, see the Bengal General Clauses Act, 1899 (Ben. Act 1 of 1899), s. 24, in Vol. I, p. 12.

IRRIGATION.**109****of 1876.]****THE BENGAL IRRIGATION ACT, 1876.***(Schedule B.)***SCHEDULE B.***(see section 74.)***APPLICATION FOR WATER.****No.****Mauza.****Pargana.****Canal.****Village-channel.****Name of owner of village-channel.****Name of applicant.**

I, the undersigned, hereby apply for water from the above-named village-channel for the fields and crops below detailed, and I engage to pay to the canal-officer, or other person duly authorized to receive them, the water-rates as prescribed by the Lieutenant-Governor under the provisions of the Bengal Irrigation Act, and I further agree to abide by all the rules issued under that Act :—

No. of field in revenue-map.	Acreage of field.	Crop to be grown.

*Signature or mark of applicant.**Date* _____

IRRIGATION.

THE BENGAL IRRIGATION ACT, 1876. [Ben. Act 2 of 1876.]

(Schedule C.)

SCHEDULE C.

(see section 75.)

PERMISSION TO TAKE WATER.

No.

Permit

of village

to take water from

canal

village-channel

for the undermentioned fields and crops:—

No. of field.	Acreage of field.	Crops to be grown.	Water-rate due.	Date of payment.
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*Signature of Canal-officer.**Date—*

page 111

[1]

5 OF 1816).

[16th February, 1816.]

A Regulation for establishing the office of Kánungo in the district of Cuttack, the pargana of Patáspur, and the several parganas dependent on it. [2]

Preamble.

[1] **SHORT TITLE.**—This short title was given by the Repealing and Amending Act, 1933 (1 of 1933), printed in Vol. I, p. 18.

LOCAL EXTENT.—This Regulation was extended generally to the Province of Bengal by the Bengal Kánungos and Patwáris Regulation, 1819 (1 of 1819), s. 4 (1), *post*, p. 126; but it may be suspended in any mahal—*see ibid*, s. 4 (4), *post*, p. 126.

The application of the Regulation in the de-regulationised tracts in Bengal is barred as follows, namely :—

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), s. 3 (2),
printed in Vol. I, p. 257;

~~Trade Regulation, 1900 (1 of 1900)~~

in the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation (3 of 1872), s. 3 (2), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s. 8, printed in Vol. I, p. 294.

RULES.—As to the status, appointment and duties of Kánungos, *see* the Board's Rules, 1902, pp. 65 to 67.

As to the duties of Kánungos in Orissa, *see* the Government Estates Manual, 1902, pp. 64 to 86.
As to the appointment and duties of Kánungos under the Bengal Tenancy Act, 1885 (8 of 1885), *see* the Survey and Settlement Manual, 1900, pp. 84, 85.

FUNCTIONS OF COLLECTOR.—As to the exercise of the functions of the Collector under this Regulation by other officers, *see* the Bengal Kánungos and Patwáris Regulation, 1819 (1 of 1819), s. 4 (3), printed *post*, p. 126, and the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, printed *post*, under the head "Land-revenue."

[2] The words printed in italics are obsolete, this Regulation having been extended to the whole province of Bengal by the Bengal Kánungos and Patwáris Regulation, 1819 (1 of 1819), s. 4 (1), *post*, p. 126.

[3] The commencement clause, which was repealed by the Repealing Act, 1874 (16 of 1874), is omitted.

Appointment
of kánungos.

2. One or two persons shall be appointed to fill the office of kánungo in every pargana of the district of Cuttack, in the pargana of Patáspur, and in the several parganas dependent on it,^[1] unless the small extent of a pargana shall render it advisable to place more than one pargana under the same kánungo.

Nomination
of kánungos.

3. These officers shall be nominated by the Collectors of Cuttack and Hijli^[1] within their respective local jurisdictions, for the approval of the Board of Revenue,^[2] and shall not be removable from office, except for sufficient cause proved to the satisfaction of that authority * * * *^[3].

Office of
kánungo not
hereditary.

4. The office of kánungo is declared not to be hereditary; but, in all parganas in which persons may be found who formerly discharged the duties of kánungo, the officers to be appointed under this Regulation shall, as far as practicable, be selected from them; and in supplying future vacancies the Collectors shall make it a rule, in all practicable cases, to select from the families of the kánungos such persons as from character, education and acquirements shall be best qualified to perform the duty.

Salaries of
kánungos.

5. The kánungos appointed under this Regulation shall receive such salaries as the ^[4] [Governor General in Council] may think proper to fix for their support.

The salaries so granted shall be considered to preclude all claims to further pecuniary allowances, under the denomination of mánkár, or any other denomination.

Revenue of
lands held by
kánungos
liable to
resumption.

It is also hereby declared that the revenue of all lands, the grant of which may be found to have been obtained by any person in virtue of his discharging the duties of kánungos, will be liable to resumption^[5] by Government; and that this rule shall be considered applicable both to the persons who may be appointed to the office of kánungo under the present Regulation, and to those who may not be employed in the public service.

Nothing, however, contained in this provision shall be construed to

[1] The words printed in italics are obsolete, this Regulation having been extended to the whole province of Bengal by the Bengal Kánungos and Patwáris Regulation, 1819 (1 of 1819), s. 4 (1), *post*, p. 126.

[2] As to the exercise of functions of the Board of Revenue by other authorities, see the references cited in foot-note [2] on page 75 of Vol. I.

[3] The words and figures "under the provisions of Regulation 1809," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[4] The words "Governor General in Council" in s. "Local Government" were substituted therefor—see the (1 of 1903), in Vol. I, p. 18.

[5] For power to continue minholders in possession of lands resumed, and for declaration as to the heritability and transmission of minholders' lands, see the Bengal Land-revenue Settlement (Resumed Kánungos and Revenue-free Lands) Regulation, 1825 (13 of 1825), ss. 2, 3, printed *post*, under the head "Land-revenue.

having been extended to the Regulation, 1819 (1 of 1819), s. 4, are omitted.

5, 1804, and Regulation 8, 4), are omitted.

to be read as if the words "and Amending Act, 1903

revenue of which has been resumed of minholders' tenures, see the (free Lands) Regulation, 1825

of 1816] THE BENGAL KÁNUNGOS REGULATION, 1816.

(Secs. 6-8.)

preclude the [1] [Governor General in Council] from continuing to either of those classes of persons the whole or a part of the lands held by them respectively free of assessment, in those cases in which the circumstances of the parties may appear to require that indulgence.

6. The above rule is not to preclude claims to rent-free lands, or pensions held by the kánungos under grants made to the individuals for reasons unconnected with the office of kánungo. Exception.

7. The kánungos are to execute the duties herein specified:—

First.—To keep a counterpart jama-wásil-báki, or account of the collections made by the tahsildars or by sazáwals from lands held khas or under attachment. Duties of kánungos.

Second.—To keep an account of all lands held under rent-free tenures, whether the grants be hereditary or otherwise, and to report to the Collector all escheats of such lands to Government.

Third.—To keep a list of the patwáris in each village, and a register of pattas granted by the landholders to their under-tenants.

Fourth.—To keep a register of all transfers of estates by sale (public or private), mortgage, lease or otherwise, and to attest such transfers at the request of the parties, without fee or gratuity, with their official signatures.

Fifth.—To compile information regarding local boundaries of parganas and estates; the number and names of villages, articles of produce, rates of rent, rules and customs established in each pargana; and to furnish at the requisition of the Courts of Justice and of the Collectors, all local information within their cognizance.

Sixth.—To assist at all admeasurements of land, whether undertaken by the officers of Government in conformity to the Regulations, or by the landholders or raiyats, and to record the same.

Seventh.—To prepare and keep the information and accounts directed in this or any future Regulation, in such manner and form as may be from time to time prescribed by the Board of Revenue. [2]

Eighth.—To report to the Collector the death of a málguzár and the name of his heirs, and to keep a register of all successions to lands.

8. Persons who may be selected to fill the office of kánungo are hereby Kánungos not to hold farms

[1] The words "Governor General in Council" in s. 5 are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1908 (1 of 1903) in Vol. I., p. 18.

[2] As to the exercise of functions of the Board of Revenue by other authorities, see the references cited in foot-note [2] on page 75 of Vol. I.

or become
sureties. prohibited from holding farms, or from becoming sureties for farmers or zamindars, within the local limits of their official duties.

Transfer of
records to 9. On the death, resignation or removal of a kánungo the records of the office are to be made over to his successor, and the Magistrate of the zila is enjoined, on the application of the Collector, to interpose his authority, in all cases in which it may be necessary, to enforce the surrender of such records.

Punishment
on refusal to
give them up. 10. The refusal or manifest evasion of any person in possession of the records mentioned in the preceding section to deliver them up on the requisition of the Magistrate is hereby declared to subject the party so offending, on proof thereof, to the penalties prescribed * * [1] for resistance to the process of the Magistrate.

Right of Gov-
ernment to
vary number
of kánungos. 11. Nothing contained in this Regulation shall be construed to preclude the [2] [Governor General in Council] from exercising the right of decreasing the number of kánungos; of abolishing the office in any pargana where from local circumstances the duty may be performed by less than two persons or by the kánungos in a neighbouring pargana; nor from exercising the right to increase the number of kánungos in any pargana where from circumstances more than two may be found necessary.

Collectors to
report when
variations are
necessary. 12. The Collectors of *Cuttack and Hijli* [3] are enjoined to report to Government, through the usual channel, all instances wherein they may deem it expedient to increase or diminish the number of kánungos in a pargana, with their reasons at large for such opinion.

[1] The words "by the Regulations," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

[2] The words "Governor General in Council" in s. 11 are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903) in Vol. I, p. 18.

[3] The words printed in italics are obsolete, this Regulation having been extended to the whole Province of Bengal by the Bengal Kánungos and Patwáris Regulation, 1819 (1 of 1819), s. 4 (1), *post*, p. 126.

THE BENGAL PATWÁRIS REGULATION, 1817
(REGULATION 12 OF 1817).

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[1] This table has been newly added.

THE BENGAL PATWÁRIS REGULATION, 1817 [1]

(REGULATION 12 of 1817).

[12th August, 1817.]

Regulation for securing the better administration of the office of patwári * * * * [2].

Preamble.

1. The existing Regulations regarding patwáris have been found to be in many respects defective, and great difficulties and delays have consequently been experienced in the division of estates, the adjustment of the revenue to be assessed on their respective shares, the investigation of summary and other suits for rents, the decision of disputes relating to the limits of estates and villages, and the execution of decrees of the Courts of Judicature, in regard to the possession and property of land :

the reform of the office appears therefore to be an object of the highest importance; * * * * [2].

The following rules have therefore been enacted * * * * [3].

2. [*Repeal of enactments relating to appointment of patwáris*]. *Rep. by the Repealing Act, 1874 (16 of 1874).*

Every village to have

3. Every village paying, or liable to pay, the public revenue shall have

[1] SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), printed in Vol. I, p. 18.

LOCAL EXTENT.—This Regulation was extended to the Province of Bengal generally by the Bengal Kánungos and Patwáris Regulation, 1819 (1 of 1819), s. 4 (2), *post*, p. 126; but it may be suspended in any mahál—*see ibid.*, s. 4 (4). Power to suspend the operation of the Regulation in other parts of the Province was given by Reg.

1 of 1819, s. 4 (6), *post*, p. 127.

The Regulation is in force in the Southal Parganas—*see* Vol. V, Part VI B (c); but its application in the other de-regulationised tracts in Bengal is barred as follows, namely:—

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), s. 3 (2), printed in Vol. I, p. 257, and

86),

RULES, ETC.—As to the appointment and duties of Patwáris, *see* the Government Estates Manual, 1902, pp. 70 to 84; in Bihár, *see ibid.*, pp. 91.

As to the employment of patwáris in Government and Settlement Manual, 1900, pp. 108, 109.

Sarbarákháras are *ex officio* patwáris for their villages under Reg. 12 of 1817, s. 3—*see* the Government Estates Manual, 1902, p. 67, rule 6.

FUNCTIONS OF COLLECTOR.—As to the exercise of the functions of the Collector under this Regulation by other officers, *see* the Bengal Kánungos and Patwáris Regulation, 1819 (1 of 1819), s. 4 (8), printed *post*, p. 126, and the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, printed *post* under the head "Land-revenue."

[2] The words in the title and s. 1 as to local extent, which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

[3] The clause in s. 1 as to commencement and local extent, which was repealed by the same Act, is omitted.

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THE BENGAL PATWÁRIS REGULATION, 1817.

(Secs. 7-9.)

a separate patwári, except in cases where the Board of Revenue or other authority exercising the power of that Board [1] shall, in consideration of former usage or other sufficient cause, authorise one patwári to do the duty of two or more villages, or direct two or more patwáris to be established in a single village.

separate
patwári,

4, 5, 6. [*Every village to have a separate patwári; continuation of patwáris now in office; procedure in nominating patwáris.*] *Rep. by the Repealing Act, 1874 (16 of 1874).*

7. Whenever a vacancy may occur in the office of patwári, such vacancy shall be filled on the nomination of the zamindar or other landholder or farmer, engaging with Government for the public revenue, who is hereby enjoined to report such nomination to the Collector of the district within one month after the vacancy has taken place :

Vacancies
how filled up.

Provided, however, that in such nomination the zamindar or other landholder or farmer shall be generally guided by the custom which may heretofore have prevailed in the village in respect to the succession of patwáris, and shall not deviate therefrom without previously obtaining the sanction of the Collector, and it shall be the duty of the Collectors carefully to see that this rule is observed, and particularly that the just rights of the inferior pattidárs, or sharers in joint undivided estates, and of dependent talukdars, or other under-tenants of the lands, as connected with the appointment of patwáris, are duly maintained.

8. On receiving the report of the nomination of a patwári, as directed to be made in the foregoing section, the Collector is to insert the name of the party in the register of patwáris for his district, unless he shall see good and sufficient ground to object to the person so nominated as disqualified for the office, in which case he is immediately to submit his objections to the Board of Revenue, [1] * * * * * [2] and the Board * * * [3] will decide whether the zamindar or farmer shall be called upon to nominate another person, or pass such other order on the question as may appear just and right.

Procedure of
Collector on
receiving
nomination of
patwári.

9. The proprietors of joint and undivided estates engaging jointly for the

Rules
regarding

[1] As to the exercise of functions of the Board of Revenue by other authorities, see the references cited in foot-note [2], on page 75 of Vol. I.

[2] The words "the Board of Commissioners, or the Commissioner in Bihár and Benares, as the case may be", which were repealed by the Repealing Act, 1876 (12 of 1876), are omitted.

[3] The words "or Commissioner," which were repealed by the same Act, are omitted.

patwáris in
joint and
undivided
estates.

Rules as to
patwáris in
khas estates.

Penalty in
cases of
refusal or
omission
to comply
with rules.

Procedure of
zamindars
wishing to
remove
patwári.

Penalties for
removing
patwári
without
authority.

public revenue shall be considered jointly and severally bound * * * * [1]
to nominate a patwári in the mode prescribed in * * * [2] this
Regulation, or to show sufficient cause for their failing to do so.

10. In estates held khas, and in estates under the superintendence of the
Court of Wards, the patwári shall be appointed by the Collector.

[3] 11. Should any zamindar or other proprietor or farmer, refuse or omit
* * * [4] to nominate a patwári in the cases provided for in * * * [5]
this Regulation within the time prescribed * * * [6] and shall fail
to show good cause for such neglect or failure, it shall be competent to
the Collector, with the approval of the Board of Revenue [7] * * * [8] to
levy a daily fine upon him, until a patwári is nominated, or, with such approval,
himself to nominate a qualified person for the office.

12. Whenever a zamindar or farmer engaging with Government for the
public revenue may wish to remove a patwári from office, he is to state
his reasons for so doing to the Collector of the district, who, if they
appear good and sufficient, will authorise the removal of the patwári, but not
otherwise.

13. Any zamindar or other landholder or farmer of land removing a
patwári from office without the authority of the Collector obtained in the mode
prescribed in the preceding section shall be punished by a fine not exceeding
fifty rupees for the first offence and one hundred rupees for the second
offence; [9]

and if it should appear, on investigation by the Collector, that the
removal was unjust and without sufficient cause the said zamindar or other
landholder or farmer of land shall be further subject to a daily fine with the

[1] The words and figures "to furnish the Collector with the statement required in section, and," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[2] The words and figures "sections 5 and 7 of," which were repealed by the same Act, are omitted.

[3] S. 11 is explained by the Bengal Kánungos and Patwáris Regulation, 1819 (Ben. Reg. 1 of 1819), s. 6, *post*, p. 127.

[4] The words and figures "to furnish the statement required by section 4 or," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[5] The words and figures "sections 5 and 7 of," which were repealed by the same Act, are omitted.

[6] The words "in those sections," which were repealed by the same Act, are omitted.

[7] As to the exercise of functions of the Board of Revenue by other authorities, *see* the references cited in foot-note [3] on page 75 of Vol. I.

[8] The words "the Board of Commissioners, or the Commissioner in Bihár and Benares, as the case may be," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[9] As to the extension to other cases of the penalties prescribed in s. 13, *see* the Bengal Kánungos and Patwáris Regulation, 1819 (1 of 1819), s. 7, *post*, p. 127.

of 1817.]

THE BENGAL PATWÁRIS REGULATION, 1817.

(Secs. 14-18).

approbation of the Board of Revenue [1] * * * *, [2] but not otherwise, until the patwári be restored.

14. Whenever the inferior pattidárs, or sharers, or the raiyats or under-tenants of a village may petition the Collector for the removal of the patwári, the Collector shall direct such removal, and shall call upon the zamindar or other landholder or farmer of land engaging with Government for the public revenue to appoint another patwári :

Patwáris removable on representation of under-tenants.

Provided the reasons adduced for praying such removal appear to the Collector good and sufficient, but not otherwise.

15. Whenever a Collector shall see ground to desire the removal of a patwári for neglect of duty or other sufficient cause, he is to state his reasons to the Board of Revenue, [1] * * * [2] as the case may be, who will authorize the removal or not, as may seem proper.

Procedure of Collector desiring to remove patwári.

16. The duties of the patwári shall be—

Duties of patwáris.

First.—To keep such registers and accounts relating to the village or villages to which he is appointed, in such manner and form as has heretofore been the custom, or in such other mode as may be hereafter prescribed by the Board of Revenue, [1] * * * [2] together with such further registers and accounts as may be directed by those authorities respectively.

Second.—To prepare and deliver to the kánungo of the pargana, at the expiration of every six months, a complete copy of the aforesaid accounts showing distinctly the produce of the kharif and rabi harvests.

Third.—To perform all other duties and services which it has been customary for him to execute.

17. The Board of Revenue, [1] * * * [2] will determine on the mode in which the accounts rendered by the patwári to the kánungo shall be brought forward by the latter, and recorded in the office of the Collectors.

Transmitting and recording patwáris' accounts.

18. The patwári is to be paid hereafter in the same mode as he is now paid, whether in money, or in grain, or in land, or in any other legal manner whatsoever; but it shall be the duty of the several Collectors to complete an account of the mode in which such payment is made in the different parganas or other local divisions of their district and to submit the result of their

Payment of patwáris, and adjustment of their allowances in certain cases.

[1] As to the exercise of functions of the Board of Revenue by other authorities, see the references cited in foot-note [2] on page 75 of Vol. I.

[2] The words "the Board of Commissioners, or the Commissioner in Bihár and Benares," in ss. 13, 15 and 16, respectively, which were repealed by the Repealing Act, 1876 (12 of 1876), are omitted.

[3] The words "Board of Commissioners, or Commissioner in Bihár and Benares," in s. 17, which were repealed by the same Act, are omitted.

Researches to the Board of Revenue or other authority [1] exercising the powers of that Board; and it shall be competent to the Board of Revenue or other authority aforesaid, with the sanction of the [2] [Governor General in Council] to increase or reduce the amount of remuneration paid to the patwáris and to alter or modify the mode of its payment, in any case in which sufficient cause for the adoption of such a measure shall exist.

Remuneration of patwáris in villages where none are now appointed.

19. Where no patwári has hitherto been appointed, the amount of the remuneration to the patwári who may be appointed under this Regulation, and the mode of its payment, shall be regulated by the Collector, with reference to the usage of the adjoining villages.

Procedure on refusal of payment of established remuneration to patwári.

20. If the remuneration, which a patwári has heretofore regularly received or which may be assigned to him by the Collector or other competent revenue authority, be denied to him by the parties who have hitherto paid it, or who may have been directed to pay it by the said authority, he is at liberty to complain against the person so withholding his dues to the Collector, who will proceed to an immediate investigation of the facts, and decide according to the usage of the village; and the Collector is hereby authorized to compel payment of the amount due to the patwári, and to fine the offending party according to his situation and circumstances in life:

Provided always that the fine in no instance exceed fifty rupees.

Local usage of pargana to be reported by pargana kánungo.

21. In all cases in which the decision of the Collector is to be governed by usage, it shall be made an invariable rule to insert in the original proceedings on the case the attested report of the kánungos of the pargana, as to the custom or usage in reference.

Power to summon patwári and to examine him on oath to the truth of his accounts.

22. Collectors of land-revenue are hereby empowered to summon the patwári of any village or villages within their respective districts, whenever there may be occasion for his attendance on any matter connected with the duties of his office, and to require him to produce all accounts relating to the lands, produce, rents, collections and charges of the village or villages, the accounts of which may be kept by him, and to examine him on oath [3] to the truth of such accounts, and on any other matters relating to such accounts, or regarding

[1] As to the exercise of functions of the Board of Revenue by other authorities, see the references cited in foot-note [2] on page 75 of Vol. I.

[2] The words "Governor General in Council" in a. to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), in Vol. I, p. 18.

[3] As to oaths and affirmations, see the Indian Oaths Act, 1873 (10 of 1873), in General Acts, 1868-76, Ed. 1898, p. 411.

of 1817.] THE BENGAL PATWÁRIS REGULATION, 1817.

(Secs. 23-25.)

the lands, produce, rents, collections and charges of the village or villages to which the said patwári may belong.

When a Collector shall require the attendance of a patwári for the purpose above stated, he is to serve patwári with a written notice under his official seal and signature, stating the purpose for which his attendance is required, and the papers (if any) which he is to bring with him.

23. If any patwári shall neglect or omit to produce his original accounts on the requisition of a Collector, or to give his evidence respecting them, the Collector is hereby authorized and empowered to cause the said patwári to be apprehended, and to order him to be confined in the Diwání jail of the District until he produce his accounts, or show sufficient cause for not producing them.

Power to compel patwáris to produce their accounts.

In such cases the patwári shall be sent by the Collector with a rubakari to the Judge of the [1] zila, stating the purport of the order passed against him; and the Judge shall, on those grounds, commit the patwári to jail, and detain him until he produce the accounts, or until the Collector applies for his release.

24. In like manner patwáris shall produce all accounts relating to the lands, produce, collections and charges of the village or villages the accounts of which may be kept by them respectively, and furnish every information and explanation that may be required regarding them, whenever they may be required by any Court of Justice, in any suit that may be depending before the Court;

Patwáris to produce accounts when required by Courts of Justice.

and if any patwári shall neglect or omit to attend with his accounts when required, for the adjustment of any matter or dispute depending in Court, the Courts are authorized to order such patwári to be committed to close custody until he produce the accounts, or show sufficient cause for not having produced them.

[2] 25. In any case in which a Collector of land-revenue shall have occasion to depute an officer to examine the accounts of any village or villages, he is authorized to require the patwáris to attend such officer, and the Collector is further empowered to grant to such officer a commission to swear [3] the several

Power to require attendance of patwáris on officers deputed to examine

[1] The words "City or," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

[2] As to the conferment, on Native Officers making inquiries preparatory to settlement, of the powers provided by s. 25, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 24, printed *post* under the head "Land-revenue."

[3] As to oaths and affirmations, see the Indian Oaths Act, 1873 (10 of 1873), in General Acts, 1868-76, Ed. 1898, p. 411.

village-accounts and to grant commission to swear patwáris.

patwáris whose accounts are to be inspected, inserting in the commission the name of each patwári to be sworn ;

and if any such patwári shall neglect or refuse to attend such officer with his accounts, or to give his evidence respecting them, when duly required to do so by a written notice from the Collector, the Collector is hereby authorized and empowered to proceed against such patwári in the same mode as if he had refused or neglected to attend or to give his evidence before the Collector himself.

26. [*Patwáris giving false depositions, when guilty of perjury.*] Rep. by the Repealing Act, 1876 (12 of 1876).

Punishment for patwáris falsifying or mutilating village-accounts.

27. * * * [1] Any patwári who shall alter, fabricate, falsify or mutilate the accounts of the village to which he belongs, or shall furnish to the kánungo or Collector false, fabricated or mutilated copies of those accounts, shall be held and considered guilty of forgery, and shall be liable, on conviction * * * , [2] to the penalties which are or may be prescribed for that offence * * * ; [3]

and any person who shall cause or procure any such forgery shall be liable to the same penalties as those convicted of having actually committed the offence.

28. [*Existing rules requiring the attendance of proprietors, etc., of lands sold or divided, declared still in force.*] Rep. the Repealing Act, 1876 (12 of 1876).

Power to require attendance of Native agents of proprietors whose estates are to be sold, transferred or divided, and to cause them to be examined on oath touching accounts.

29. * * * [1] Whenever an estate or the portion of an estate may be directed to be disposed of at public sale, or may be transferred by the private act of the proprietor or proprietors, or when an estate may be divided pursuant to a decree of a Court of Judicature, or at the request of one or more of the proprietors, or when an estate or portion of an estate may be under attachment, the Collector shall be authorized to require the attendance of all descriptions of Native agents employed by the proprietors or such estates or farms in the management of their lands, or keeping accounts relating to them, and to examine or to cause them to be examined on oath, [4] touching such accounts, in the same manner as he is authorized by sections 22 and 25 of this

[1] The words "In like manner," in ss. 27 and 29, which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

[2] The words "before a Court of Circuit," in s. 27, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[3] The words "in the Regulations," which were repealed by the same Act, are omitted.

[4] As to oaths and affirmations, see the Indian Oaths Act, 1873 (10 of 1873), in General Acts, 1868-76, Ed. 1898, p. 411.

of 1817.] THE BENGAL PATWÁRIS REGULATION, 1817.

(Secs. 30-32.)

Regulation to require the attendance and to take or cause to be taken the examination of patwáris;

and if such agents shall refuse or neglect to attend the Collector or his officer, when their attendance may be duly required, or to give their evidence, the Collector is authorized and empowered to proceed against them in the same manner as is prescribed in the case of patwáris refusing or neglecting to attend.

30. * * * [1] The rules contained in sections * * * 27⁽²⁾ shall be held and considered applicable to all such Native agents employed by proprietors or farmers of land, in the management of their estates or farms or in keeping the accounts relating to them.

Section 27
applied to
Native agents.

31. Whenever a Collector of land-revenue, or other officer vested with the powers of a Collector, may in any case connected with his public duty, but not provided for in this or any other Regulation in force, have occasion to require the attendance of a zamindar or other proprietor or farmer of lands, or of the gumáshta or other officer or agent of such proprietor or farmer, with the accounts of such lands, he shall report the circumstance to the Board of Revenue [3] * * * [4] and the [5] [Board is] hereby empowered to grant authority to the Collector or other officer aforesaid, to require the attendance of the proprietor or farmer, or of the gumáshta or other officer or agent, with all accounts relating to the lands in their possession or management.

Procedure in
cases not
provided for
when
attendance of
proprietors or
farmers with
accounts is
required.

32. A written notice shall in such cases be issued by the Collector or other officer to the party whose attendance is required, stating the purpose for which he is summoned, and the papers (if any) which he is to bring with him;

Notice to
person
required to
attend.

and, if the proprietor or farmer shall omit or refuse to attend, or cause his officer or agent to attend, by the time prescribed in the Collector's requisition, with the accounts and information required, the Board of Revenue [3] * * * [6] are authorized and empowered to impose upon him

Penalty for
omission or
refusal.

[1] The words "Provided further that," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

[2] S. 30, so far as it relates to s. 26, having been repealed by the Repealing Act, 1876 (12 of 1876), the figures and word "26 and" have been omitted.

[3] As to the exercise of functions of the Board of Revenue by other authorities, see the references cited in foot-note [2] on page 75 of Vol. I.

[4] The words "the Board of Commissioners, or the Commissioner in Bihár and Benares, according as he may be subject to one or the other of those authorities," in s. 31, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[5] The words "Board is," in s. 31, were substituted for the words "Boards are" by the Repealing and Amending Act, 1891 (12 of 1891). The words "and Commissioner aforesaid," which occurred after "Boards," were repealed by the Repealing Act, 1874 (16 of 1874).

[6] The words "Board of Commissioners and Commissioner in Bihár and Benares, as the case may be," in s. 32, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

THE BENGAL PATWÁRIS REGULATION, 1817. [Reg. 12 of 1817.]

(Secs. 33, 34.)

such daily fine, [1] to be payable daily until he complies with the Collector's requisition, as they may think adequate to his situation and circumstances in life; * * * * [2].

The fine * * * [3] is to be levied by the same process as is prescribed for the recovery of arrears of revenue.

Provision in cases where appointment of village patwáris is inexpedient.

33. In cases in which, from local or other sufficient causes, it may appear impracticable or inexpedient to cause the appointment in any estate or farm of patwáris, in the mode prescribed in this Regulation, as, for instance, in certain estates consisting chiefly of hills and forests in the south-western frontier, and in very small maháls, the accounts of which are kept by the proprietors themselves, it shall be competent to the Board of Revenue [4] * * * [5] to suspend its operation in such estates or farms:

Provided, however, that in all such cases the person by whom the village-accounts are kept, whether proprietor or farmer, or gumáshta or other officer, shall furnish the kánungo of the pargana with such accounts and statements; as the Collector, with the approval of the Board [4] * * *, [6] may direct; and shall be subject to the provisions contained in sections 22, 23, 24, 25 * * [7] and 27 of this Regulation; and the proprietors or others by whom they may be employed shall likewise be subject to the provisions contained in sections * * [8] 27.

In what cases Courts prohibited from taking cognizance of complaints of patwáris.

34. No Court of Judicature shall take cognizance of the complaint of a patwári against the landholder, or the tenants of a village, for refusing to remunerate his labours, nor shall any Court of Judicature take cognizance of any complaint against a Collector for, or on account of, any decision passed by him in virtue of the powers with which he is vested by this Regulation.

[1] For power of Collector to impose daily fine on proprietors or farmers of land, see also the Bengal Landholders' Attendance Act, 1848 (20 of 1848), printed *post* under the head "Land-revenue."

[2] The words "reporting, however, the amount for the information of the Governor General in Council," in s. 82, which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

[3] The words "when confirmed by Government," which were repealed by the same Act, are omitted.

[4] As to the exercise of functions of the Board of Revenue by other authorities, see the references cited in foot-note [3] on page 75 of Vol. I.

[5] The words "the Board of Commissioners or the Commissioner in Bihár or Benares, as the case may be," in s. 33, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[6] The words "or Commissioner," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[7] S. 33, so far as it relates to s. 26, having been repealed by the Repealing Act, 1876 (12 of 1876), the figures "26" have here been omitted.

[8] For the same reason, the figures and word "26 and" have here been omitted.

[Reg. 12 of 1817.] THE BENGAL PATWÁRIS REGULATION, 1817.

(Secs. 35, 36.)

[Reg. 1 of 1819.] THE BENGAL KÁNUNGOS AND PATWÁRIS REGULATION, 1819.

[1] 35. (1) Any person aggrieved by a decision or order of a Collector under section 20 of this Regulation may appeal within six months from the date thereof to the Commissioner of the Division.

Appeals to Commissioner from decision or order under section 20.

(2) The Commissioner may reverse or alter any such decision or order in appeal.

36. All sums adjudged by the Collector in favour of a patwári under section 20, and all fines directed to be levied by this Regulation, shall be recoverable by the same processes as arrears of the public revenue; and all such fines, when recovered, shall be carried to the account of Government.

Recovery and appropriation of fines, etc.

THE BENGAL KÁNUNGOS AND PATWÁRIS REGULATION, 1819 [2]

(REGULATION 1 OF 1819).

[5th February, 1819.]

A Regulation * * * [3] for re-establishing Kánungos and reforming the office of Patwári throughout the Province of Bengal; and for explaining and modifying certain parts of Regulation 12, 1817. [4]

1-3. [*Preamble; controlling Revenue authorities in Dinajpur, Rangpur and Gorakhpur.*] *Rep. by the Repealing Act, 1873 (12 of 1873).*

[1] This section was substituted for the original s. 35 by the Repealing and Amending Act, 1891 (12 of 1891).

[2] SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), printed in Vol. I, p. 18.

LOCAL EXTENT.—This Regulation extends to the whole Province of Bengal—*see* s. 4 (1); but it may be suspended in any mahál—*see* s. 4 (4).

The Regulation is in force in the Sonthal Parganas—*see* Vol. V, Part VI B (c); but its application in the other de-regulationised tracts in Bengal is barred as follows, namely:—

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), s. 3 (2), printed in Vol. I, p. 257, ~~and~~

~~in the Chittagong Hill tracts, by the Chittagong Hill tracts Regulation, 1900 (1 of 1900), s. 4 (2), printed in Vol. I, p. 232.~~

[3] The words "for replacing the districts of Dinajpur and Rangpur under the management of the Board of Revenue; for extending the authority of the Board of Commissioners in Bihár and Benares to the district of Gorakhpur" which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

[4] Printed *ante*, p. 116.

THE BENGAL KÁNUNGOS AND PATWÁRIS REGULATION, 1819, [Reg. 1

(Sec. 4.)

Appointment
of kánungos
throughout
Bengal.

4. *First*.—Kánungos shall be appointed throughout the Province of Bengal in the same manner, and for the performance of the same duties, as are prescribed in Regulation 5, 1816,^[1] in regard to the district of Cuttack, the pargana of Patáspur and its dependencies; and all the rules contained in the Regulation aforesaid are hereby extended generally to the Province of Bengal

Regulation
12 of 1817
extended.

Second.—The provisions of Regulation 12, 1817,^[2] are in like manner hereby extended to the several districts of the said Province to which they have not yet been applied.

Nomination
of kánungos
by persons
other than
Collectors.

Third.—Provided, however, that in cases in which it may not appear advisable, from whatever cause, to leave the selection and nomination of the kánungos to the Collector of the district, it shall be competent to the ^[3] [Governor General in Council] to appoint such other officer specially to perform that duty, as ^[3] [he] may judge expedient; and the officer so appointed shall have and exercise, during such period as the ^[3] [Governor General in Council] may direct, the same powers as are vested generally in Collectors of land-revenue under the provisions of Regulation 5, 1816,^[1] and Regulation 12, 1817.^[2]

But nothing herein contained shall be construed to preclude the person holding permanently the office of Collector in such district from discharging the ordinary duties of his situation under the general rules and Regulations applicable to that branch of the public service.

Power to
suspend
operation of
rules regard-
ing kánungos
and patwáris.

Fourth.—Provided further that it shall be competent to the ^[3] [Governor General in Council] to suspend the operation of the rules contained in this or any former Regulation, regarding kánungos and patwáris within any maháls in which the establishment of such officers, as prescribed in those rules, may appear to be inexpedient.

Board of
Revenue may
alter duties of
kánungos.

Fifth.—Provided likewise that it shall be competent to the Board of Revenue, or other authority ^[4] exercising the powers of that Board, to make such alteration in the duties to be performed by kánungos as local circumstances shall suggest * * * *^[5].

[1] Printed *ante*, p. 111.

[2] Printed *ante*, p. 116.

[3] The words "Governor General in Council" and "he," in s. 4, are to be read as if the words "Local Government" and "It," respectively, were substituted therefor—*see* the Repealing and Amending Act, 1903 (1 of 1903), in Vol. I, p. 18.

[4] As to the exercise of functions of the board of revenue by other authorities, *see* the references cited in foot-note [2] on page 75 of Vol. I.

[5] The words and figures "anything in section 7, 4 of 1808, and other corresponding enactments, to the contrary, notwithstanding," were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

of 1819.] THE BENGAL KÁNUNGOS AND PATWÁRIS REGULATION, 1819.

(Secs. 5-7.)

Sixth.—Provided also that it shall be competent to the Board of Revenue^[1] to suspend by proclamation the operation of the rules of Regulation 12, 1817,^[2] in the districts of Chittagong * * ^[3] and in any other parts of the country in which individual estates may generally be of inconsiderable extent, until they shall have determined, under the discretion vested in them by sections 3, 18 and 33 of that Regulation, the number of patwáris to be appointed or retained, the mode in which they are to be remunerated and the maháls to be permanently exempted from its general operation.

And suspend operation of Regulation 12, 1817, in certain places.

5. In all cases in which any village or villages, or any lands whatsoever the accounts of which may be kept by a single patwári, shall be held by two or more persons under distinct engagements with Government, it shall be competent to the Collector, with the approval of the Board of Revenue or other authority ^[1] exercising the powers of that Board, to assume the direct nomination and appointment of such patwári, with or without a reference to the proprietors.

Collector may nominate and appoint patwari in certain cases.

But in all such cases the Collector shall deviate as little as possible from established usage, and shall be careful to consult the inclinations, and maintain the interests, of all persons connected with the maháls in question.

6. In explanation of section 11, ^[4] Regulation 12, 1817, it is hereby declared and enacted that, if any proprietor or farmer of land shall refuse or omit to furnish the statement required by section 4 ^[5] of that Regulation within the period therein prescribed, or at any subsequent period, when called upon to do so by the Collector or other officer exercising the powers of Collector, it shall be competent to the Collector or other officer aforesaid, with the approval of the Board of Revenue or other authority ^[1] exercising the powers of that Board, to levy a daily fine upon such proprietor or farmer, until the statement required be furnished, to such amount as may appear proper, with reference to the circumstances of the case, and to the condition in life of the offender.

Explanation of section 11, Regulation 12, 1817.

7. The penalties prescribed in section 13, ^[4] Regulation 12, 1817, or the illegal removal of a patwári from office by a zamindar or other proprietor

Penalty for unauthorised

[1] As to the exercise of functions of the Board of Revenue by other authorities, see the references cited in foot-note ^[2] on page 75 of Vol. "

[2] Printed *ante*, p. 116.

[3] The words "and Sylhet," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

[4] Printed *ante*, p. 118.

[5] S. 4 of Reg. 12 of 1817 was repealed by the Repealing and Amending Act, 1874 (16 of 1874).

KÁNUNGOS AND PATWÁRIS.
THE BENGAL KÁNUNGOS AND PATWÁRIS [Reg. 1 of 1819.]
REGULATION, 1819.

(Sec. 7.)

removed, etc.,
of patwári.

or farmer of land, are hereby declared applicable to all persons whatsoever who may, without due authority, remove from office any patwári duly constituted or appointed; or who may oppose a patwári so appointed or constituted, in the performance of his duties or who may prevent his performing them, or who may resist or evade the entry of a patwári, when duly appointed into the possession of his office.

KARATOYA RIVER.

THE KARATOYA TOLLS ACT, 1856 [1]

(ACT 22 OF 1856).

[5th December, 1856.]

An Act for establishing a toll on boats and timber passing through the Karatoya river in the district of Bogra.

WHEREAS it is expedient, with a view to afford facilities for the internal commerce of the districts of Dinajpur, Rangpur and Bogra, to adopt measures for the improvement of the navigation of that part of the Karatoya river which lies within the district of Bogra; Preamble.

And whereas any measure which may be adopted for this purpose will necessarily occasion a considerable outlay at the first, and an annual expense thereafter, and it is just and reasonable that, to defray the same, a moderate toll should be levied on all boats, timber, rafts and floats passing through or within such part of the said river;

And whereas it is expedient to encourage individual enterprise and the employment of private capital on works of public utility;

It is enacted as follows:—

1. Tolls, at the rates specified in the schedule annexed to this Act may be levied on all boats, timber, rafts and floats passing through or within the aforesaid part of the Karatoya river, at such stations or places as the Lieutenant-Governor of Bengal may from time to time appoint. Tolls may be levied on Karatoya;

The said tolls shall be levied by such persons, and under such rules, as the said Lieutenant-Governor may direct; and all such rules shall be duly notified in the English and vernacular Gazettes for public information.

2. Provided that no such toll shall be levied until the Lieutenant-Governor of Bengal shall be satisfied, by the report of a competent person, that effective measures have been taken to render the passage through the said part of the Karatoya river navigable throughout the year: but not till river is made navigable.

[1] SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), printed in Vol. I, p. 18.

LOCAL EXTENT.—This Act applies only to that part of the Karatoya river which lies within the district of Bogra—see the preamble and s. 1.

OTHER ENACTMENTS AS TO TOLLS.—For other enactments as to tolls, see the Index to the Indian Statutes, Ed. 1897, pp. 793 to 795, and the Indian Tolls (Army) Act, 1901 (2 of 1901), in General Acts, 1899-03, Ed. 1904, p. 142.

Provided, also, that the levy of the said tolls shall be continued only so long as the passage is kept so navigable.

Boats, &c.,
may be detain-
ed and sold
for non-pay-
ment of toll.

3. Any person duly appointed or authorized to collect the said tolls may detain any boat, timber, raft or float for which the toll chargeable under this Act is not paid; and, on the report of such person, which report shall be made within twenty-four hours, the Deputy Collector of Bogra or other public officer duly authorized by Government in that behalf may publish a notice appointing a day for the sale of the same.

At or after the time appointed by the notice, which shall not be less than fifteen days from the date of the publication thereof, if the toll be not paid, or sufficient cause for non-payment be not shown to the satisfaction of the Deputy Collector or other officer as aforesaid, such officer may sell the thing detained, or, in the case of a boat, such part of the tackle or lading thereof or, in the case of a raft or float, such part of the same, as may be necessary for the recovery of the toll, and shall pay the overplus, if any, to the owner on demand.

Penalty for
unlawful de-
tention.

4. Any person who, under colour of this Act, shall unlawfully detain any boat, timber, raft or float, or shall neglect, or without lawful excuse delay, to report the detention of any boat, timber, raft or float, to the Deputy Collector or other officer as aforesaid, or shall demand or receive as toll any larger sum than is authorized by the schedule annexed to this Act, shall, on conviction before a Magistrate * * *, [1] forfeit a sum not exceeding two hundred rupees.

Government
may authorize
person to carry
out objects of
Act;

5. For the purpose of carrying out the objects of this Act the Lieutenant-Governor of Bengal may authorize any public officer to cut any canal, clear and deepen any channel, stop any watercourse, or take any other measures which may be judged necessary for making the river navigable as aforesaid, or may grant the like authority to any private person who may undertake to carry out those objects at his own expense;

and may take possession, as for a public purpose, of any land that may be necessary for the execution of any of the above-mentioned works, under the provisions of * * * [2] any Act [3] that may hereafter be in force for

[1] The words "or other officer exercising the powers of a Magistrate," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

[2] The words and figures "Regulation 1 of 1824 or of," in s. 5, which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

[3] See now the Land Acquisition Act, 1894 (1 of 1894), in General Acts, 1891-98, Ed. 1899, p. 100.

THE KARATOYA TOLLS ACT, 1856.

(Sec. 6; Schedule.)

taking possession of land for public purposes, whether the said works are to be executed at the expense of Government, or of such private person as aforesaid.

6. If the Lieutenant-Governor shall grant authority to any private person to carry out the objects of this Act at his own expense, he may also make a grant of the said tolls to such person upon such conditions and for such a term as to the said Lieutenant-Governor shall appear just and proper, and may authorize such person, or any person or persons employed by him, to collect the said tolls, and may make grant of tolls.

SCHEDULE

Of tolls chargeable on boats, timbers, rafts and floats passing into or through the Karatoya river within the district of Bogra.

Bajrás, bhaunliyas and other boats

personal accommodation .

Four annas per oar.

Boats of burthen, empty .

At the rate of two annas per 100 maunds burthen.

Boats of burthen, laden with bricks, tiles and earthenware; straw, grass, reeds, firewood; fruit and vegetables

At the rate of four annas per 100 maunds burthen.

Boats of burthen, laden with

pulse, seeds

any other

not expressly

enumerated

. At the rate of twelve annas per 100 maunds burthen.

Timbers in rafts or otherwise not being in boats, two annas each timber.

Bamboos in floats, four annas per 100 bamboos.

Every boat less than 50 maunds burthen shall be rated as 25 maunds; every boat of 50 maunds and less than 75 maunds shall be rated as 50 maunds; every boat of 75 maunds and less than 100 maunds shall be rated as 75 maunds; every boat of 100 maunds and less than 125 maunds shall be rated as 100 maunds, and so on.

Any number of bamboos less than an even hundred shall be rated as 100.

LANDLORD AND TENANT.

Reg. 18 of 1812	the Bengal Leases and Land-revenue Regulation, 1812	page 152
Reg. 8 of 1819	the Bengal Patni Taluks Regulation, 1819	" 155
Reg. 1 of 1820	the Bengal Patni Taluks Regulation, 1820	" 172
Act 25 of 1850	the Forfeited Deposits Act, 1850	" 173
Act 6 of 1853	the Rent Recovery Act, 1853	" 174
Act 10 of 1859	the Bengal Rent Act, 1859	" 182
Ben. Act 6 of 1862	the Bengal Rent Act, 1862	" 222
Ben. Act 8 of 1865	the Bengal Rent Recovery (Under-tenures) Act, 1865	" 231
Ben. Act 4 of 1867	the Bengal Rent (Appeals) Act, 1867	" 236
Ben. Act 8 of 1879	the Bengal Rent Settlement Act, 1879	" 237
Act 8 of 1885	the Bengal Tenancy Act, 1885	" 251
Act 8 of 1886	the Bengal Tenancy (Amendment) Act, 1886	" 339
Ben. Act 3 of 1898	the Bengal Tenancy (Amendment) Act, 1898	" 340
Ben. Act 1 of 1903	the Bengal Tenancy (Validation and Amendment) Act, 1903	" 342
" " 1 of 1907	the Bengal Lunacy (Amendment) Act 1907	Suppl

ACTS PASSED SPECIALLY FOR CHOTA NAGPUR—

Ben. Act 2 of 1869	the Chota Nagpur Tenures Act, 1869	" 345
Ben. Act 1 of 1879	the Chota Nagpur Landlord and Tenant Procedure Act	" 353
Ben. Act 4 of 1897	the Chota Nagpur Commutation Act, 1897	" 411
Ben. Act 5 of 1903	the Chota Nagpur Tenancy (Amendment) Act, 1903	" 420

The enactments mentioned in the foregoing list are all printed post, pages 152 et seq., under the head "Landlord and Tenant." The list on pages 133 to 151 gives references to some further enactments in force in Bengal, containing provisions as to landlord and tenant.

Ben. Act 6 of 1908 ... the Chota Nagpur Tenancy Act, 1908 ... Suppl

List of Enactments.

1	2	3	4	5
No. and year.	Short title.	Section.	Abstract.	Where published.
Reg. 1 of 1793.	The Bengal Permanent Settlement Regulation, 1793.	7	Zamindars and their rent-collectors to conduct themselves with good faith and moderation towards their dependent talukdars and raiyats.	Post, under head "Land-revenue."
Ditto.	Ditto.	7 (1)	Reservation of power to enact Regulations for the protection and welfare of dependent talukdars, raiyats and other cultivators of the soil.	
Reg. 2 of 1793.	The Bengal Land-revenue Regulation, 1793.	8 (1)	Collectors to levy rents from estates held <i>khas</i> .	
Ditto.	Ditto.	33	Power of Board of Revenue to require the personal attendance of landlords and tenants.	
Reg. 8 of 1793.	The Bengal Decennial Settlement Regulation, 1793.	40	Consolidation of malguzari and private lands in dependent taluks not to be a ground for increasing rents of talukdars.	
Ditto.	Ditto.	49, 50	Prohibition of increase of rent of certain istimrar-dars (makarraridars).	
Ditto.	Ditto.	51 to 53 ^[1]	Prevention of undue exactions from dependent talukdars.	
Ditto.	Ditto.	54 ^[1]	Consolidation of former abwabs, etc.	
Ditto.	Ditto.	55 ^[1]	Prohibition of future abwabs, etc.	
Ditto.	Ditto.	64 ^[1]	Instalments of rent to be adjusted according to the time of reaping and selling produce.	

[1] Sec. 51 to 55 and 64 of Reg. 8 of 1793 are repealed by the Bengal Tenancy Act, 1885 (8 of 1885), s. 2, post p. 252, wherever that Act is in force.

List of Enactments.

1	2	3	4	5
No. and year.	Short title.	Section.	Abstract.	Where published.
Reg. 8 of 1793— <i>contd.</i>	The Bengal Decennial Settlement Regulation, 1793— <i>contd.</i>	65[¹]	Prohibition of engagements contrary to this Regulation.	
Ditto.	Ditto.	66	Landlords and tenants not to interfere in matters falling within jurisdiction of Courts.	
Reg. 5 of 1812.	The Bengal Land-revenue Sales Regulation, 1812.	2 to 4[¹]	Grant of leases by proprietors to tenants, and right to receive engagements for payment of rent; prohibition of sh-wabs, etc.; decision of Court required for annulment of lease on attachment or sale.	Post, under head "Land-revenue."
Ditto.	Ditto.	26, 27[¹]	Appointment and removal of managers of joint estates.	
Reg. 29 of 1814.	The Bengal Ghatwali Lands Regulation, 1814.	...	Incidents of Ghatwali tenures.	Vol. I of this Code, under head "Ghatwali Lands."
Act 5 of 1859.	The Bengal Ghatwali Lands Act, 1859.	...		
Reg. 5 of 1816.	The Bengal Kanungos Regulation, 1816.	7	Kanungos to keep accounts; to keep registers of <i>pattas</i> , etc.; to compile information as to boundaries, produce, rates of rent; to assist at measurements, etc.	<i>Ante</i> , p. 118.
Reg. 12 of 1817.	The Bengal Patwaris Regulation, 1817.	7	Collector to see that rights of inferior pattadars and of tenants as to appointment of patwaris are duly maintained.	<i>Ante</i> , p. 117.

[¹] S. 61 of Reg. 8 of 1793, and ss. 2 to 4, 26 and 27 of Reg. 5 of 1812, are repealed by the Bengal Tenancy Act, 1886 (9 of 1886), s. 2 *post*, p. 269, wherever that Act is in force.

List of Enactments.

1	2	3	4	5
No. and year.	Short title.	Section.	Abstract.	Where published.
Reg. 12 of 1817.	The Bengal Patwaris Regulation, 1817.	14	Removal of patwari on petition of inferior patta-dars or of tenants.	} <i>Ante</i> , p. 119.
Ditto.	Ditto.	16	Patwaris to keep registers and accounts.	
Ditto.	Ditto.	18 to 21, 34	Remuneration of patwaris.	
Reg. 1 of 1819.	The Bengal Kanungos and Patwaris Regulation, 1819.	4	Regulations 5 of 1816 and 12 of 1817 (noted <i>supra</i>) extended to whole of Bengal; power to suspend those Regulations in particular areas; power to alter duties of Kanungos.	<i>Ante</i> , pp. 119 120, 124. <i>Ante</i> , p. 129.
Reg. 7 of 1822.	The Bengal Land-revenue Settlement Regulation, 1822.	4	Revenue settlements not to bar right of Revenue officers to interfere to adjust the respective rights of sadar malguzars and their under-tenants.	} <i>Post</i> , under head "Land-revenue."
Ditto.	Ditto.	6 (1), (3); 9 (1), (2); 11 (1); 14 (1), (4), (5); 15; 16; 20.	Power of Collector to procure and record full information as to the rights, interests, privileges and properties of the agricultural community, and to determine the same and settle disputes.	
Ditto.	Ditto.	10 (7)		
Reg. 9 of 1833.	The Bengal Land-revenue (Settlement and Deputy Collectors) Regulation, 1833.	3	Rates of rent of cultivating proprietors of lands of which revenue is collected <i>khas</i> or farmed.	} <i>Post</i> , under head "Land-revenue."
Reg. 7 of 1822.	The Bengal Land-revenue Settlement Regulation, 1822.	14 (4), (5); 16; 34.		
Reg. 4 of 1828.	The Bengal Land-revenue Settlement Regulation, 1828.	2 (4)	Power of Collectors to interfere in cases of disputed possession.	

List of Enactments.

1	2	3	4	5
No. and year.	Short title.	Section.	Abstract.	Where published.
Reg. 7 of 1822.	The Bengal Land-revenue Settlement Regulation, 1822.	19	Power of Collector to require personal attendance of landlords and tenants.	
Act 20 of 1848.	The Bengal Landholders' Attendance Act, 1848.	...		
Reg. 7 of 1822.	The Bengal Land-revenue Settlement Regulation, 1822.	20, 21	Trial by Collectors of suits and applications as to rent, excessive demands or exactions of rent, accounts, non-delivery of <i>pattas</i> or receipts, etc.	Post, under head "Land-revenue."
Reg. 9 of 1825.	The Bengal Land-revenue Settlement Regulation, 1825.	23	Extension of territorial operation of the sections of Regulation 7 of 1822 mentioned above.	
Reg. 6 of 1823.	The Bengal Indigo Contracts Regulation, 1823.	...		
Reg. 5 of 1830.	The Bengal Indigo Contracts Regulation, 1830.	5	Advances under written agreement for cultivation of indigo.	Ante, p. 68.
Act 10 of 1836.	The Bengal Indigo Contracts Act, 1836.	...		Ante, p. 75.
Reg. 9 of 1825.	See <i>ante</i> , on this page.			Ante, p. 76.
Reg. 11 of 1825.	The Bengal Alluvion and Diluvion Regulation, 1825.	...	Determination of claims to alluvial land, and of rent payable therefor.	Vol. I, pp. 55, 61.
Act. 31 of 1858.	The Bengal Alluvial Land Settlement Act, 1858.	2		

List of Enactments.

1	2	3	4	5
No. and year.	Short title.	Section.	Abstract.	Where published.
Ben. Act 4 of 1868.	The Bengal Alluvion (Amendment) Act, 1868.	...	Determination of claims to alluvial land.	Vol. I, p. 68.
Reg. 3 of 1828.	The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1828.	13 (1)	Grants and leases of land in Sundarbans.	} <i>Post,</i> under head "Land-revenue."
Ditto.	Ditto.	13 (2)	Survey of Sundarbans.	
Reg. 4 of 1828.	See <i>ante</i> , p. 135.			
Reg. 5 of 1830.	See <i>ante</i> , p. 136.			
Reg. 9 of 1833.	See <i>ante</i> , p. 135.			
Act 10 of 1836.	See <i>ante</i> , p. 136.			
Act 20 of 1848.	See <i>ante</i> , p. 136.			
Act 23 of 1850.	The Calcutta Land-revenue Act, 1850.	3, 4	Distress and sale of property of landlord or tenant, for recovery of land-revenue; deduction by tenant from rent, when revenue recovered from him.	<i>Post</i> , under head "Land-revenue."
Act 13 of 1857.	The Opium Act, 1857.	...	Cultivation of the poppy .	Vol. IV of this Code, under head "Opium."
Act 1 of 1878.	The Opium Act, 1878.	4, 5, 9, 11, 22.	Ditto .	General Acts, 1877-81, Ed. 1898, pp. 112, 114, 117.
Act 31 of 1858.	See <i>ante</i> , p. 136.			
Act 5 of 1859.	See <i>ante</i> , p. 134.			

List of Enactments.

1	2	3	4	5
No. and year.	Short title.	Section.	Abstract.	Where published.
Act 11 of 1859.	The Bengal Land-revenue Sales Act, 1859.	7	Notice prohibiting payment to defaulting proprietor of rent falling due after last day of payment of land-revenue.	Vol. IV of this Code, under head "Recovery of Public Demands."
Ben. Act 7 of 1868.	The Bengal Land-revenue Sales Act, 1868.	7		
Act 11 of 1859.	The Bengal Land-revenue Sales Act, 1859.	37, 52	Right of purchaser of estate sold for arrears of revenue— to annul all under-tenures and leases, with certain exceptions, and to enhance rents in certain cases.	
Ditto.	Ditto.	38 to 44, 46 to 51.	Registration of certain tenures, farms and leases, to secure protection against annulment on sale of estate for arrears of revenue.	
Ben. Act 3 of 1862.	The Bengal Land-revenue Sales (Amendment) Act, 1862.	...		
Act 11 of 1859.	The Bengal Land-revenue Sales Act, 1859.	53, 54	Cases in which a purchaser of an estate sold for arrears does not acquire rights in respect of under-tenants or raiyats which the previous proprietor did not possess.	
Ditto.	Ditto.	55	Arrears of rent due on latest day of payment of land-revenue, recoverable by defaulter after that day.	
Ben. Act 3 of 1862.	See <i>ante</i> , on this page.			
Ben. Act 8 of 1862.	The Bengal Zamindari Dak Act, 1862.	12	This Act not to affect contracts or engagements made by zamindars with persons holding under them.	Vol. IV of this Code, under head "Post Office."
Ben. Act 4 of 1868.	See <i>ante</i> , p. 137.			

List of Enactments.

1	2	3	4	5
No. and year.	Short title.	Section.	Abstract.	Where published.
Ben. Act 7 of 1868.	The Bengal Land-revenue Sales Act, 1868.	7	See <i>ante</i> , p. 138.	
Ditto.	Ditto.	11	Sale of tenures for arrears of land-revenue.	Vol. IV of this Code, under head "Recovery of Public Demands."
Ditto.	Ditto.	12 to 14	Right of purchaser of tenure sold for arrears of revenue—to annul all undertenures, with certain exceptions, and to enhance rents in certain cases.	
Ben. Act 6 of 1870.	The Village-chaukidari Act, 1870.	48 to 61	Chaukidari chakaran lands.	Vol. IV of this Code, under head "Police."
Ben. Act 3 of 1884.	The Bengal Municipal Act, 1884.	361		Vol. III of this Code, under head "Municipalities."
Reg. 3 of 1872.	The Sonthal Parganas Settlement Regulation.	...	Rents, etc., in Sonthal Parganas.	Vol. I, pp 293, 316, 576.
Reg. 2 of 1886.	The Sonthal Parganas Rent Regulation, 1886.	...		
Reg. 2 of 1904.	The Sonthal Parganas Settlement Regulation, 1904.	...		
Ben. Act 5 of 1875.	The Bengal Survey Act, 1875.	...	Survey and demarcation of land.	Vol. IV of this Code, under head "Survey."
Ben. Act 3 of 1876.	The Bengal Irrigation Act, 1876.	28	Abatement of rent on interruption of water-supply.	<i>Ante</i> , p. 90.
Ditto.	Ditto.	29	Enhancement of rent on restoration of water-supply.	<i>Ante</i> , p. 91.
Ditto.	Ditto.	83, 84, 90	Right of distraint for recovery of rent for one year has priority over claim for arrears of water-rate.	<i>Ante</i> , pp. 104, 105.

List of Enactments.

1	2	3	4	5
No. and year.	Short title.	Section.	Abstract.	Where published.
Act 6 of 1876.	The Ohqta Nagpur Incumbered Estates Act, 1876.	3 (a), 4, 16, 17	Manager to supersede proprietor of incumbered estate, in relations with tenants.	<i>Ante</i> , pp. 58, 62.
Ditto.	Ditto.		Power of Manager of incumbered estate to set aside leases after inquiring into consideration.	<i>Ante</i> , p. 60.
Ben. Act 7 of 1876.	The Land Registration Act, 1876.	56	Appointment of Receiver to collect rents, in case of dispute as to possession or title of proprietor who applies to register his interest.	
Ditto.	Ditto.	68	Joint and several liability of recorded proprietors and managers of an estate or revenue-free property for discharge of duties and obligations imposed upon proprietors by any law.	
Ditto.	Ditto.	78	Tenants not bound to pay rent to unregistered proprietor, manager or mortgagee.	Vol. IV of this Code, under head "Registration of Land."
Ditto.	Ditto.	79	Receipts of registered proprietors, managers and mortgagees afford full indemnity to persons paying rent to them.	
Ditto.	Ditto.	81	Sections 78 and 79, noted above, not to affect written contracts.	
Act 1 of 1878.	<i>See ante</i> , p. 137.			
Ben. Act 7 of 1878.	The Bengal Excise and Licensing Act, 1878.	5, 54	License required for cultivation of plants from which intoxicating drugs are produced.	Vol. I, pp. 498, 505.

List of Enactments.

1	2	3	4	5
No. and year.	Short title.	Section.	Abstract.	Where published.
Ben. Act 7 of 1878— <i>contd.</i>	The Bengal Excise and Licensing Act, 1878— <i>contd.</i>	16, 63	Restriction on sale of such plants by cultivators.	Vol. I, pp. 496, 507.
Ben. Act 9 of 1879.	The Court of Wards Act, 1879.	14, 18, 23 (2), 24, 39.	Powers of Court of Wards and its managers in dealing with property under the charge of that Court.	Vol. I, pp. 220, 221, 223, 227.
Ditto.	Ditto.	48	Payment of rents, cesses and other demands by such managers.	Vol. I, p. 229.
Ditto.	Ditto.	55	Power of Ward of Court to bring suits for arrears of rent.	Vol. I, p. 232.
Ditto.	Ditto.	60	Disabilities of Wards of Court.	Vol. I, p. 234.
Ditto.	Ditto.	63	Recovery of interest on arrears of rent due to manager of Court of Wards.	Vol. I, p. 235.
Ben. Act 6 of 1880.	The Bengal Drainage Act, 1880.	30	Power to declare holders of tenures and under-tenures, instead of landholders, to be liable for payment of drainage charges to Government.	} Vol. I, p. 359.
Ditto.	Ditto.	31	Drainage charges, a first charge on lands; such charges not avoided by sale of lands, or of any estate, tenure or under-tenure therein, for arrears of revenue or rent.	
Ditto.	Ditto.	39	Power of Collector to recover drainage charges by letting, mortgaging or managing improved or reclaimed lands.	

List of Enactments.

1	2	3	4	5
No. and year.	Short title.	Section.	Abstract.	Where published.
Ben. Act 6 of 1880— <i>contd.</i>	The Bengal Drainage Act, 1880— <i>contd.</i>	42 to 45, 48, 50 to 51C	Recovery of drainage charges by landholders and superior tenants, from persons holding land under them,— (1) by enhancement of rent, (2) by resort to the certificate procedure, or (3) by other means.	Vol. I, pp. 365 to 372.
Ditto.	Ditto.	51D to 51J	Suspension of recovery of drainage charges, from both landholders and tenants, in case of failure of crops.	Vol. I, pp. 372, 373.
Ben. Act 2 of 1902.	The Bengal Drainage (Amendment) Act, 1902.	14	Recovery, under the certificate procedure, of certain subsisting claims by landholders against tenants in respect of the Howrah and Rajapur drainage schemes.	Vol. I, p. 394.
Ditto.	Ditto.	15 to 19	Reduction of part charges against landholders in respect of the Howrah and Rajapur drainage schemes; proportionate reduction of amounts recoverable by landholders from tenants.	Vol. I, pp. 395, 396.
Ben. Act 9 of 1880.	The Cess Act, 1880.	19, 20	Holders of estates and tenures precluded from suing for or recovering— (a) rent for land or tenure in respect of which no return has been lodged under the Act, (b) rent for land, holding or tenure which is not mentioned in returns so lodged, or (c) rent at a higher rate than is mentioned in such returns.	Vol. I, p. 113.

List of Enactments.

1	2	3	4	5
No. and year.	Short title.	Section.	Abstract.	Where published.
Ben. Act 9 of 1880— <i>contd.</i>	The Cess Act, 1880— <i>contd.</i>	40A	Payment of cesses by tenants (other than cultivating raiyats) direct to Government, as proprietor of tenure.	Vol. I, p. 120.
Ditto.	Ditto.	41(2)	Payment of cesses by tenure-holders to their landlords.	} Vol. I, p. 121.
Ditto.	Ditto.	41(3)	Payment of one-half of cesses by cultivating raiyats to their landlords.	
Ditto.	Ditto.	42 and 182(f)	Time for making the payments above referred to.	Vol. I, pp. 121, 163.
Ditto.	Ditto.	47	Recovery of dues from tenants, with interest at 12½ per cent. <i>per annum</i> .	Vol. I, p. 124.
Ditto.	Ditto.	52 to 71, and 182 (f)	Fixing and payment of cesses due from tenants of rent-free lands.	Vol. I, pp. 126 to 133, 163.
Ditto.	Ditto.	81	Recovery by occupiers from owners (or by owners from occupiers) of half the amount of cess paid by the former on account of mines, etc.	Vol. I, p. 135.
Ditto.	Ditto.	99	Power to prohibit tenants from paying rent to any person except the Collector, when cesses, expenses, fines, etc., under Act are not paid; power of Collector to recover rent when prohibition made.	Vol. I, p. 140.
Ben. Act 2 of 1882.	The Bengal Embankment Act, 1882.	55, 74	Recovery of proportionate share of embankment and water-course charges by zamindars and tenure-holders from their tenants.	Vol. I, pp. 472, 478.
Ditto.	Ditto.	56 to 60, 62 to 66, 68, 69	Apportionment of such charges between zamindars and tenure-holders.	Vol. I, pp. 473 to 476.

List of Enactments.

1	2	3	4	5
No. and year.	Short title.	Section.	Abstract.	Where published.
Ben. Act 2 of 1882— <i>contd.</i>	The Bengal Embankment Act, 1882— <i>contd.</i>	61, 67	Instalments for payment of such charges, and interest on arrears.	Vol. I, pp. 474 476.
Ditto.	Ditto.	73	Power of Collector to mortgage, let in farm or manage estate for recovery of such charges.	Vol. I, p. 477.
Ditto.	Ditto.	87	Reduction of charges against zamindars and tenure-holders, on relinquishment of lands taken up for works.	Vol. I, p. 481.
Act 4 of 1882.	The Transfer of Property Act, 1882.	Ch. V	Leases of immoveable property.	General Acts, 1882-84, Ed. 1898, p. 79.
Act 14 of 1882.	The Code of Civil Procedure.	4	Code of Civil Procedure not to affect laws prescribing a special procedure for suits between landholders and tenants.	Ditto, p. 265.
Ditto.	Ditto.	4A	Power to modify Code in its application to Revenue Courts trying suits for rent, etc.	
Ben. Act 3 of 1884.	The Bengal Municipal Act, 1884.	104	Right of owner of holding, paying consolidated rate on holding and on adjacent land belonging to another, to deduct proportionate amount from the rent he pays for such land.	Vol. III of this Code, under head "Municipalities."
Ditto.	Ditto.	105	Recovery from occupier of rate imposed on holding of absentee owner; right of occupier to deduct payments from rent.	
Ditto.	Ditto.	121	Distrain of occupier's property found in holding, for recovery of rate; owner of holding to indemnify occupier.	

List of Enactments.

1	2	3	4	5
Nd. and year.	Short title.	Section.	Abstract.	Where published.
Ben. Act 3 of 1884— <i>contd.</i>	The Bengal Municipal Act, 1884— <i>contd.</i>	182	Apportionment between owners and occupiers of expenses incurred by Municipal Commissioners for works carried out under Act.	Vol. III of this Code, under head "Municipalities."
Ben. Act 1 of 1900.	The Darjeeling Municipal Act, 1900.	6	Bengal Act 3 of 1884, s. 182, not to apply to proceedings under B. n. Act 1 of 1900.	
Ben. Act 3 of 1884.	The Bengal Municipal Act, 1884.	183	Right of occupier to recover, by deductions from rent or otherwise, expenses paid by him for works carried out under Act, when Municipal Commissioners certify that such expenses should be borne by owner.	
Ditto.	Ditto.	184	Right of owner and occupier to contest in Civil Court their liability to pay expenses or fees under Act.	
Ditto.	Ditto.	281, 284	Right of occupier to recover one-fourth of water-rate from owner, and to deduct same from rent.	
Ditto.	Ditto.	286	Recovery of water-rate by owners from occupiers.	
Ditto.	Ditto.	305	Saving of agreements between owners and occupiers imposing on the latter an obligation to bear expense of keeping in repair works connected with supply of water.	
Ditto.	Ditto.	310, 312, 315	Lighting-rate when payable by occupiers and when by owners.	
Ditto.	Ditto.	313, 314	Recovery of lighting-rate by owners from occupiers.	

List of Enactments.

1	2	3	4	5
No. and year.	Short title.	Section.	Abstract.	Where published.
Ben. Act 3 of 1884— <i>contd.</i>	The Bengal Municipal Act, 1884— <i>contd.</i>	322, 323	Fee for cleansing latrines when payable by owners and when by occupiers.	} Vol. III of this Code, under head "Municipalities."
Ditto.	Ditto.	321	Payments by owners or occupiers of fixed sum in lieu of such fee.	
Ditto.	Ditto.	323, 324	Recovery of such fee by owners from occupiers.	
Ditto.	Ditto.	325, 326	Power to compound for such fee, or to levy a sanitation rate, in case of railway, factory, etc.	
Ditto.	Ditto.	357	Service on occupier of notices addressed to owner.	
Ditto.	Ditto.	364	See <i>ante</i> , p. 189.	...
Reg. 2 of 1886.	See <i>ante</i> , p. 189.	...	...	...
Reg. 1 of 1894.	The Angul District Regulation, 1894.	32	Limitations on rate of interest.	Vol. I, p. 264.
Ditto.	Ditto.	39	Recovery of rent due to Government.	Vol. I, p. 574.
Ditto.	Ditto.	41A	Recovery of rent due to sarbarakars.	Vol. I, p. 574.
Ditto.	Ditto.	54A	Transfer of tenancies or holdings.	} <i>Tenures</i> Vol. I, p. 575.
Ditto.	Ditto.	54B	Ejectment of tenants.	
Pen Act 1 of 1895.	The Public Demands Recovery Act, 1895.	7 (g), (h)	Arrears of rent payable to Government recoverable under the certificate procedure.	Vol. IV of this Code, under head "Recovery of Public Demands."
Ben. Act 3 of 1895.	The Land Revenue Maintenance Act, 1895.	...	Registration of tenants' rights.	Vol. IV of this Code, under head "Registration of Land."

List of Enactments.

1.	2.	3.	4.	5.
No. and year.	Short title.	Section.	Abstract.	Where published.
Ben. Act 8 of 1895.	The Bengal Sanitary Drainage Act, 1895.	23, 24, 35 (c)	Half the sanitary drainage rate, paid by holders of estates and tenures, recoverable from tenureholders and cultivating raiyats; application of the Cess Act, 1880 (Ben. Act 9 of 1880), as to proportions and manner of recovery.	Vol. I, pp. 387, 389.
Ben. Act 5 of 1897.	The Estates Partition Act, 1897.	44, 96 (2)	Application of the Bengal Survey Act, 1875 (Ben. Act 5 of 1875), to estates under partition.	
Ditto.	Ditto.	44	Deputy Collectors making partitions to have powers exerciseable by a Revenue-officer employed in preparing a record-of-rights under Chapter X of the Bengal Tenancy Act, 1885.	Vol. IV of this Code, under head "Partition."
Ditto.	Ditto.	46	Particulars as to landlords and tenants and their rights, to be recorded by Deputy Collectors.	
Ditto.	Ditto.	47, 48, 121 (h) to (j).	Correction and publication of such record.	
Ditto.	Ditto.	57 (ii)	Rental to be shown in partition paper.	
Ditto.	Ditto.	* 64 to 66	Rent payable, after partition, to proprietor of land occupied by dwelling-house, orchard, etc., of another proprietor.	
Ditto.	Ditto.	67 to 71	Redemption of such rent.	
Ditto.	Ditto.	81	Splitting-up of tenure or holding, and apportionment of rent thereof.	
Ditto.	Ditto.	82	Restriction on division of land held rent-free.	
Ditto.	Ditto.	83	Land held at fixed rent on a <i>patni</i> or other permanent intermediate tenure, how to be dealt with in partition proceedings.	

List of Enactments.

1	2	3	4	5
No. and year.	Short title.	Section.	Abstract.	Where published.
Ben. Act. 5 of 1897— <i>contd.</i>	The Estates Partition Act, 1897— <i>contd.</i>	99	Saving of <i>patni</i> and other tenures, leases and other incumbrances, on partition of estate.	Vol. IV of this Code, under head "Partition."
Ben. Act 3 of 1899.	The Calcutta Municipal Act, 1899.	171	Owner and occupier each liable for one-half of the consolidated rate.	
Ditto.	Ditto.	172	Recovery by owner from tenant of part of owner's share of consolidated rate, when assessed value exceeds rent.	Vol. III of this Code, under head "Municipalities."
Ditto.	Ditto.	178 to 183	Power in certain cases to levy consolidated rate from owner; recovery of occupier's share by owner.	
Ditto.	Ditto.	186	Liability of occupier to pay owner's share of consolidated rate, on failing to furnish owner's name and address.	
Ditto.	Ditto.	222	Power to recover owner's share of consolidated rate from occupier or his sub-tenants, who may deduct amount from rent.	
Ditto.	Ditto.	228	The consolidated rate a first charge on property.	
Ditto.	Ditto.	250 to 253	Making water-works connection by owner or occupier; recovery of part of cost by owner from occupier, and <i>vice versa</i> .	
Ditto.	Ditto.	265	Right of occupier to repair water-connections and deduct expenses from rent; saving of leases.	
Ditto.	Ditto.	282	Arbitration in case of difference between owner and occupier as to water-supply.	

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List of Enactments.

1	2	3	4	5
No. and year.	Short title.	Section.	Abstract.	Where published.
Ben. Act 3 of 1899— <i>contd.</i>	The Calcutta Municipal Act, 1899— <i>contd.</i>	283 (4)	Right of occupier to deduct from rent expenses paid by him on account of water-supply in default of owner.	
Ditto.	Ditto.	315	Right of occupier to deduct from rent expenses paid by him for making structural alteration in privy or urinal.	
Ditto.	Ditto.	341 (2)	Right of occupier to deduct from rent expenses paid by him for removal or alteration of fixture.	
Ditto.	Ditto.	444, 445, 519	Control over occupation or letting of buildings, on grounds of unsuitability, overcrowding or insanitation.	
Ditto.	Ditto.	447 (3)	Right of occupier to deduct from rent expenses paid by him for filling-up, etc., unwholesome wells, etc.	
Ditto.	Ditto.	449, proviso 450, proviso	Owner and occupier to have an opportunity of being heard before Magistrate orders demolition or alteration of building work unlawfully carried on.	Vol. III of this Code, under head "Municipalities."
Ditto.	Ditto.	593	Service on occupier of notices addressed to owner.	
Ditto.	Ditto.	604	Recovery from occupier of expenses payable by owner, and re-imbursement of occupier by owner.	
Ditto.	Ditto.	607, 608	Improvement expenses payable by occupier; his right in certain cases to deduct part thereof from rent.	

List of Enactments.

1	2	3	4	5
No. and year.	Short title.	Section.	Abstract.	Where published.
Ben. Act 3 of 1899— <i>contd.</i>	The Calcutta Municipal Act, 1899— <i>contd.</i>	609	Redemption of charge for improvement expenses.	Vol. III of this Code, under head "Municipalities."
Ditto.	Ditto.	611	Execution of work by occupier in default of owner, and deduction of expenses from rent.	
Ditto.	Ditto.	612	Recovery from owner of cost of work executed by or in default of occupier.	
Ditto.	Ditto.	622	Application to Chief Judge of Small Cause Court by owner when occupier prevents his complying with Act, etc.	
Ditto.	Ditto.	645	Who to be deemed owner or occupier, where there are gradations of owners or occupiers.	
Ben. Act 1 of 1900.	The Darjeeling Municipal Act, 1900.	6	See <i>ante</i> , p. 145.	Vol. I, p. 286.
Ditto.	Ditto.	17(244 S, proviso)	Owner and occupier to have an opportunity of being heard before Magistrate orders demolition or alteration of building work unlawfully carried on.	
Ditto.	Ditto.	17 (244 V to 244 Y.)	Control over occupation and letting of buildings, on grounds of safety, insanitation, unsuitability or overcrowding.	
Reg. 1 of 1900.	The Chittagong Hill Tracts Regulation, 1900.	18 (d), (f), (i)	Power to make rules as to tenancies.	Vol. I, p. 286.
Reg. 3 of 1900.	The Sonthal Parganas Rural Police Regulation, 1900.	8 to 21, 24	Payments by landlords and tenants for support of rural police.	Vol. I, pp. 337 to 340.

List of Enactments.

1	2	3	4	5
No. and year.	Short title.	Section.	Abstract.	Where published.
Act 2 of 1902.	The Cantonments (House-accommodation) Act, 1902.	...	Securing house-accommodation for military officers in cantonments.	General Acts, 1899-1903, Ed. 1904, p. 182.
Ben. Act 2 of 1902.	See <i>ante</i> , p. 142.			
Ben. Act 3 of 1904.	The Bengal Settled Estates Act, 1904.	27, 28, 30, 31	Leases by tenant for life of a settled estate.	Vol. IV of this Code, under head "Settled Estates"
Reg. 2 of 1904.	See <i>ante</i> p. 139			

THE BENGAL LEASES AND LAND-REVENUE REGULATION, 1812^[2]

(REGULATION 18 OF 1812).

[19th September, 1812.]

A Regulation for explaining section 2, Regulation 5, 1812^[3] and rescinding sections 3 and 4, Regulation 44, 1793, and sections 3 and 4, Regulation 50, 1795, ^[4] and enacting other rules in lieu thereof.

I resemble.

1. WHEREAS it has been deemed expedient to remove doubts which have arisen on the construction of section 2, Regulation 5, 1812 ^[3] and to rescind sections 3 and 4 of Regulation 44, 1793, and sections 3 and 4 of Regulation 50, 1795, ^[4] the following rules have been enacted, to be in force from the promulgation of them in the Provinces of Bengal, Bihar, Orissa (exclusive of the district of Cuttack and the parganas formerly dependent on that district, but now annexed to the zila of Midnapore) * * ^[5].

Explanation
of section 2,
Regulation 5,
1812, as to
granting
leases in
perpetuity
or otherwise.

2. Doubts having arisen on the construction of section 2, Regulation 5, 1812, ^[3] it is hereby explained that the true intent of the said section was to declare proprietors of land competent to grant leases for any period, even to perpetuity, and at any rent which they might deem conducive to their interests:

Provided, however, that nothing contained in the former or present

[1] INSPECTION.—As to the inspection of Government estates, see the Inspection Manual, 1902, pages 5, 6

As to the inspection of work connected with estates held under direct management and dependent tenures in Government estates, see *ib.*, page 17.

[2] SHORT TITLE. This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), printed in Vol. I, p. 18.

LOCAL EXTENT.—This Regulation was passed for the whole of Bengal, except the district of Cuttack and the parganas which were transferred from that district to the district of Midnapore (see section 1). It has however been repealed by the Bengal Tenancy Act, 1885 (8 of 1885), s. 2 (1), (printed *post*, p. 253), in the whole of Bengal except "the town of Calcutta, the Division of Orissa and the Scheduled Districts."

As to the extension of this repeal to the Division of Orissa, see s. 2 (2) of the Act of 1885 *post*, p. 253.

The extension of the repeal to Scheduled Districts depends upon the terms of notifications extending the Act of '88 to such districts. ~~Under the terms of the notification extending the Act of 1885 to the Santal Parganas district, the repeal has taken effect in that district.~~

The Regulation is in force in the Sonthal Parganas—see Vol. V, Part VI B (c); but its application in the other de-regulationised tracts in Bengal is barred as follows, namely:—

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), section 3 (2), printed in Vol. I, p. 257, and

~~in the Chittagong Hill tracts, by the Chittagong Hill tracts Regulation, 1900 (1 of 1900), section 4 (2), printed in Vol. I, p. 222.~~

[3] Printed under the head "Land-revenue," *post*.

[4] The portions of the title and section 1 which are printed in italics, are now obsolete. Regs. 44 of 1793 and 5 of 1795 were finally repealed by Act 29 of 1871.

[5] The words "and tenures," which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

[Reg. 18 of 1812.] THE BENGAL LEASES AND LAND-REVENUE REGULATION, 1812.

(Sec. 3.)

[Reg. 8 of 1819.] THE BENGAL PATNI TALUKS REGULATION, 1819.

Regulation shall be construed to empower persons holding a restricted interest in estates, whether for life or for other limited period, or subject to control or restriction in the use or disposal of the property, to grant leases extending beyond the term of their own interest in the property, or exceeding their power or authority over it.

3. *First*.—[*Repeal of ss. 3 and 4 of Regs. 44 of 1793 and 50 of 1795.*
Rep. by the Repealing Act, 1874 (16 of 1874).

Second.—When a division of a joint estate shall be made on the application of the proprietors, or pursuant to the decree of a Court of Justice, the fixed public revenue assessed upon the whole estate shall be apportioned on the several shares agreeably to the principles prescribed in section 10, Regulation 1, 1793, [1] * * * [2] without regard to any engagements that may subsist between the proprietors and their dependent talukdars (excepting the dependent talukdars described in section 7, Regulation 44, 1793 [3]), under-farmers or raiyats.

But all leases made in conformity to sections 2 and 3, Regulation 5, 1812, [4] and section 2 of this Regulation, shall remain in full force, notwithstanding the division of a joint estate among the sharers, or the sale of the whole or a portion of any estate in satisfaction of a decree of Court, or the devolving of the same by inheritance, or the private transfer thereof by sale, gift or otherwise.

THE BENGAL PATNI TALUKS REGULATION, 1819.
(REGULATION 8 OF 1819).

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SECTION.

1. Preamble.
2. Leases fixing rent in perpetuity or for more than ten years, valid, though executed while section 2, Reg. 44, 1793, was in force.

[1] Printed under the head "Land-revenue," *post*.

[2] The words and figures "and section 7, Regulation 27, 1795," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

[3] Ben. Reg. 44 of 1793 was repealed by Act 29 of 1871, but the reference in the text is saved by section 1 of that Act. The description in Reg. 44 of 1793, s. 7, is as follows:—

"such dependent talukdars as were exempted from any increase of assessment at the forming of the Decennial Settlement in virtue of the prohibition contained in clause *First*, section 51, Regulation 8, 1793."

Reg. 8. of 1793 is printed under the head "Land-revenue," *post*.

[4] Printed under the head "Land-revenue," *post*.

[5] This table has been newly added.

SECTION.

3. Patni tenures declared valid, transferable and answerable for debt.
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of 1819.]

TALUKS REGULATION, 1819.

(Sec. 1)

THE BENGAL PATNI TALUKS^[1] REGULATION, 1819^[2]
(REGULATION 8. of 1819).

[3rd September, 1819.]

A Regulation to declare the validity of certain tenures, and to define the relative rights of zamindars and patni talukdars ; also to establish a process for the sale of such taluks in satisfaction of the zamindar's demand of rent * *^[3].

1. By the rules of the perpetual settlement,^[4] proprietors of estates paying revenue to Government, that is, the individuals answerable to Government for the revenue then assessed on the different maháls, were declared to be

Preamble.

[1] PATNI TALUKS.—The enactments dealing with patni taluks are Reg. 8 of 1819 (here printed), the Bengal Patni Taluks Regulation, 1820 (1 of 1820), (*post*, p. 172), the Forfeited Deposits Act, 1850 (25 of 1850) (*post*, p. 173), the Rent Recovery Act, 1853 (6 of 1853), (*post*, p. 174), and the Bengal Rent Recovery (Under-ensured) Act, 1865 (Ben. Act 8 of 1865), (*post*, p. 231).

Enactments relating to patni taluks are saved by the Bengal Rent Act, 1859 (10 of 1859), s. 186 (*post*, p. 219), and by the Bengal Tenancy Act, 1885 (8 of 1885), s. 195 (c), *post*, p. 329.

For rules made by the Board of Revenue as to the working of the Patni Sale Laws, see the Sale Law Manual, 1902, pp. 107, 108.

[2] SHORT TITLE.—This short title was given by the Amending Act, 1897 (5 of 1897), Sch. III, printed in General Acts, 1891-98, Ed. 1899, p. 299.

LOCAL EXTENT.—This Regulation extends to the whole of Bengal—see the last clause of s. 1.

The Regulation has been declared, by notification under the Scheduled Districts Act, 1874 of 1874), s. 3, to be in force in the following Scheduled Districts, namely:—

the Manbhum District, and Pargana Dhalbhum in the Singhbhum District, in the Chota Nagpur Division—see Vol. V, Part V B (b).

The Regulation is in force in the Sonthal Parganas—see *ibid*, Part VI B (c); but its application in the other de-regulationised tracts in Bengal is barred as follows, namely:—

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), s. 3 (2), printed in Vol. I, p. 257, ~~and~~

~~in the Chittagong Hill tracts, by the Chittagong Hill tracts Regulation, 1900 (1 of 1900), section 4 (2), printed in Vol. I, p. 262.~~

REPRINTS.—This Regulation has been reprinted (by the Legislative Department of the Government of Bengal) as modified by subsequent legislation up to the 1st February, 1903.

It has also been reprinted, (with notes of cases decided by the High Court and of important rulings of the Board of Revenue), in the Sale Law Manual, 1902, pp. 59 to 84.

REFERENCES.—As to the application of parts of this Regulation to the recovery of sums payable under the Bengal Embankment Act, 1882 (Ben. Act 2 of 1882), see s. 74 of that Act, in Vol. I, p. 478.

Certain instruments executed under the Ancient Monuments Preservation Act, 1904 (7 of 1904), are binding on purchasers at sales made under Reg. 8 of 1819—see Act 7 of 1904, s. 8.

RULES AND ORDERS.—See note [1] on this page.

For headings of register of sales of patni taluks under this Regulation, see the Register and Return Manual, 1902, p. 14.

As to the inspection of work connected with such sales, see the Inspection Manual, 1902, p. 15.

[3] Words repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

[4] See the Bengal Permanent Settlement Regulation, 1793 (1 of 1793), printed *post*, under the head "Land-revenue."

entitled to make any arrangements for the leasing of their lands in taluk or otherwise that they might deem most conducive to their interests.

By the rules of Regulation 44, 1793, [1] however, all such arrangements were subjected to two limitations; first, that the jama or rent should not be fixed for a period exceeding ten years; and, secondly, that in case of a sale for Government arrears, such leases or arrangements should stand cancelled from the day of sale.

The provisions of section 2, Regulation 44, 1793, [1] by which the period of all fixed engagements for rent was limited to ten years, have been rescinded by section 2, Regulation 5, 1812; [2] and in Regulation 18 [3] of the same year, it is more distinctly declared that zamindars are at liberty to grant taluks or other leases of their lands, fixing the rent in perpetuity at their discretion, subject, however, to the liability of being dissolved on sale of the grantor's estate for arrears of the Government revenue in the same manner as heretofore.

In practice, the grant of taluks and other leases at a rent fixed in perpetuity had been common with the zamindars of Bengal for some time before the passing of the two Regulations last mentioned, but, notwithstanding the abrogation of the rule which declared such arrangements null and void, and the abandonment of all intention or desire to have it enforced as a security to the Government revenue in the manner originally contemplated, it was omitted to declare in the rules of Regulations 5 [2] and 18 [3] of 1812, or in any other Regulations, whether tenures at the time in existence and held under covenants or engagements entered into by the parties in violation of the rule of section 2, Regulation 44, 1793 [1] should, if called in question, be deemed invalid and void as heretofore.

This point it has been deemed necessary to set at rest by a general declaration of the validity of any tenures that may be now in existence, notwithstanding that they may have been granted at a rent fixed in perpetuity, or for a longer term than ten years, while the rule fixing this limitation to the term of all such engagements, and declaring null and void any granted in contravention thereto, was in force.

Furthermore, in the exercise of the privilege thus conceded to zamindars under direct engagements with Government, there has been created a tenure which had its origin on the estates of the Rájá of Burdwan, but has since

[1] Reg. 44 of 1793 was repealed by Act 20 of 1871.

[2] The Bengal Land-revenue Sales Regulation, 1812. It is printed *post*, under the head "Land-revenue."

[3] The Bengal Leases and Land-revenue Regulation, 1812. It is printed *ante*, p. 152.

of 1819.]

TALUKS REGULATION, 1819.

(Sec. 1.)

been extended to other zamindaris; the character of which tenure is that it is a taluk created by the zamindar, to be held at a rent fixed in perpetuity by the lessee and his heirs for ever; the tenant is called upon to furnish collateral security for the rent, and for his conduct generally, or he is excused from this obligation at the zamindar's discretion; but even if the original tenant be excused, still, in case of sale for arrears, or other operation leading to the introduction of another tenant, such new incumbent has always in practice been liable to be so called upon at the option of the zamindar.

By the terms also of the engagements interchanged, it is amongst other stipulations provided that, in case of an arrear occurring, the tenure may be brought to sale by the zamindar, and, if the sale do not yield a sufficient amount to make good the balance of rent at the time due, the remaining property of the defaulter shall be further answerable for the demand.

These tenures have usually been denominated patni taluks, and it has been a common practice of the holders of them to underlet on precisely similar terms to other persons, who on taking such leases went by the name of darpatani talukdars: these again sometimes similarly underlet to sepatnidars; and the conditions of all the title-deeds vary in nothing material from the original engagements executed by the first holder.

In these engagements, however, it is not stipulated whether the sale thus reserved to himself by the grantor is for his own benefit, or for that of the tenant; that is, whether, in case the proceeds of sale should exceed the zamindar's demand of rent, the tenant would be entitled to such excess; neither is the manner of sale specified, nor do the usages of the country nor the Regulations of Government afford any distinct rules by the application of which to the specific cases the defects above alluded to could be supplied or the points of doubt and difficulty involved in the omission be brought to determination in a consistent and uniform manner.

The tenures in question have extended through several zilas of Bengal, and the mischiefs which have arisen from the want of a consistent rule of action for the guidance of the Courts of Civil Judicature in regard to them have been productive of such confusion as to demand the interference of the legislature: it has accordingly been deemed necessary to regulate and define the nature of the property given and acquired on the creation of a patni taluk as above described, also to declare the legality of the practice of under-letting in the manner in which it has been exercised by patnidars and others, establishing at the same time such provisions as have appeared calculated to protect the

under-lessee from any collusion of his immediate superior with the zamindar or other, for his ruin, as well as to secure the just rights of the zamindar on the sale of any tenure under the stipulations of the original engagements entered into with him.

It has further been deemed indispensable to fix the process by which the said tenures are to be brought to sale, and the form and manner of conducting such sale; and

whereas the estates of zamindars under engagements with Government are liable to be brought to sale at any time for an arrear in the revenue payable by monthly kists to Government, it has seemed just to allow any zamindar who may have granted tenures with a stipulation of the right to sell for arrears the opportunity of availing himself of this means of realizing his dues in the middle of the year, as well as at the close, instead of only at the end of the Bengal year, [1] as heretofore allowed by the Regulations in force; it has further been deemed equitable to extend this rule to all cases in which the right of sale may have been reserved, even though, in conformity with the Regulations heretofore in force, the stipulation for sale contained in the engagements interchanged may have restricted such sale to the case of a demand of rent remaining unpaid at the close of the Bengal year. [1]

* * * * *

The following rules have accordingly been enacted by His Excellency the Most Noble, the Governor General in Council, to take effect from the date of their promulgation throughout the several districts of the Province of Bengal, including Midnapore.

Leases fixing rent in perpetuity or for more than ten years, valid, though executed while section 2, Regulation 44, 1793, was in force.

2. It is hereby declared that any leases or engagements for the fixing of rent now in existence that may have been granted or concluded for a term of years or in perpetuity by a proprietor under engagements with Government, or other person competent to grant the same, shall be deemed good and valid tenures, according to the terms of the covenants or engagements interchanged notwithstanding that the same may have been executed before the passing of Regulation 5, 1812, [2] and while the rule of section 2, Regulation 44,

[1] i. e., the month of Chaitra, which corresponds with the last part of March and the first part of April.

[2] The words "It has been likewise deemed advisable to explain and modify some of the existing rules for the collection of rents, with a view to render them more efficacious than at present, as well as to provide against sundry means of evasion now resorted to by defaulters," which were repealed by the Repealing and Amending Act, 1891 (13 of 1891), are omitted.

[3] The Bengal Land-revenue Sales Regulation, 1832. It is printed *post*, under the head "Land-revenue."

of 1819.]

TALUKS REGULATION, 1819.

(Sec. 3.)

1793, [1] which limited the period for which it was lawful to grant such engagements to ten years, and declared all that might be entered into for a longer term to be null and void, was in full force and effect; and notwithstanding that the stipulations of the said leases may be in violation of the rule in question :

Provided, however, that nothing herein contained shall be held to exempt any tenures held under engagements from proprietors of estates paying revenue to Government from the liability to be cancelled on sale of the said estates for arrears of the said revenue, * * * [2] unless especially exempted from such liability by the rule in question, or by any other specific rule of the Regulations in force.

3. *First.*—The tenures known by the name of patni taluks, as described in the preamble to this Regulation, shall be deemed to be valid tenures in perpetuity, according to the terms of the engagements under which they are held. They are heritable by their conditions; and it is hereby further declared that they are capable of being transferred by sale, gift or otherwise, at the discretion of the holder, as well as answerable for his personal debts, and subject to the process of the Courts of Judicature, in the same manner as other real property.

Patni to declared valid, transferable and answerable for debt.

Second.—Patni talukdars are hereby declared to possess the right of letting out the lands composing their taluks in any manner they may deem most conducive to their interest; and any engagements so entered into by such talukdars with others shall be legal and binding between the parties to the same, their heirs and assignees :

Patnidars' right of under-letting.

Provided, however, that no such engagements shall operate to the prejudice of the right of the zamindar to hold the superior tenure answerable for any arrear of his rent, in the estate in which he granted it, and free of all incumbrance resulting from the act of his tenant.

Third.—In case of an arrear occurring upon any tenure of the description alluded to in the first clause of this section, it shall not be liable to be cancelled for the same; * * [3] but the tenure shall be brought to sale by public auction, and the holder of the tenure will be entitled to any excess in the proceeds of such sale beyond the amount of the arrear of rent due, subject however, to the provisions contained in section 17 of this Regulation.

Patni tenure not voidable for arrears.

[1] Reg. 44 of 1793 was repealed by Act 29 of 1871.

[2] The words and figures "under the rule of section 5, Regulation 44 of 1793," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[3] The words and figures "under the rule contained in the seventh clause of section 16, Regulation 7, 1799, for leases conveying a limited interest in the land," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

Inferior
tenures
under similar
title-deeds
confer simi-
lar interest
to that pro-
vided for
patni taluks
in section 3.

4. If the holder of a patni taluk shall have underlet in such manner as to have conveyed a similar interest to that enjoyed by himself, as explained in the preamble to this Regulation, the holder of such a tenure shall be deemed to have acquired all the rights and immunities declared in the preceding section to attach to patni taluks, in so far as concerns the grantor of such under-tenure.

The same construction shall also hold in the case of patni taluks of the third or fourth degree.

Zamindar
not to refuse
to give effect
to transfer;

[1] 5. The right of alienation having been declared to vest in the holder of a patni taluk, it shall not be competent to the zamindar or other superior to refuse to register, and otherwise to give effect to such alienations, by discharging the party transferring his interest from personal responsibility, and by accepting the engagements of the transferee.

But may
demand fee,

In conformity, however, with established usage, the zamindar or other superior shall be entitled to exact a fee upon every such alienation; and the rate of the said fee is hereby fixed at two *per cent.* on the jama or annual rent of the interest transferred, until the same shall amount to one hundred rupees, which sum shall be the maximum of any fee to be exacted on this account.

and security.

The zamindar shall also be entitled to demand substantial security from the transferee or purchaser, to the amount of half the jama or yearly rent payable to him from the tenure transferred; the condition of furnishing such security on requisition being understood to be one of the original liabilities of the tenure.

The above rules shall apply equally to the case of a sale made in execution of a decree or judgment of Court, as to all other alienations, but it shall not apply to the case of sale for an arrear in the rent due to the zamindar or other superior, under the rules hereinafter contained.

The purchaser at such a sale shall be entitled to have his name registered and to obtain possession without fee, though of course liable to be called on to give security under the conditions of the tenure purchased.

Zamindar
may refuse
consent to
transfer till
fee and
security
tendered.

6. It shall be competent to the zamindar or other superior to refuse the registry of any transfer until the fee above stipulated be paid, and until substantial security to the amount specified be tendered and accepted:

Provided, however, that if the security tendered by any purchaser or transferee should not be approved by the zamindar, and the party tendering

[1] 3. 5 does not apply to transfers of any fractional portion of a patni taluk, or to any alienation other than that of the entire interest—see the concluding para. of a. 6, *post*, p. 161.

of 1819.]

TALUKS REGULATION, 1819.

(Secs. 7, 8.)

it shall be dissatisfied with such rejection, he shall be competent to appeal therefrom by petition or common motion in the Civil Court of the district, which authority, if satisfied of the sufficiency of the security tendered, shall issue an injunction on the zamindar to accept it and give effect to the transfer without delay.

It is hereby provided that the rules of this and of the preceding section shall not be held to apply to transfers of any fractional portion of a patni taluk, nor to any alienation other than of the entire interest; for no apportionment of the zamindar's reserved rent can be allowed to stand good unless made under his special sanction.

7. In case of the sale of a patni tenure in execution of a judgment of Court, if the purchaser do not, within the period of one month from the sale, conform to the rules of section 5 of this Regulation, in order to obtain the transfer of his tenure by the superior to whom the rent fixed upon it is payable, the zamindar or other superior shall be entitled, of his own authority, to send a sazáwal to attach and hold possession of the tenure until the forms prescribed be observed.

Upon public sale, if security not tendered within one month, zamindar may attach.

In case also of the sale of a patni tenure for arrears of the rent due upon it, under the rules of this Regulation, if security be required by the zamindar and the purchaser fail to furnish the same within one month of the date of sale, the zamindar shall similarly be entitled to send a sazáwal to attach and hold possession of the interest which may have passed on the sale, to the exclusion of the purchaser, until the prescribed security be given.

Attachments made under this section shall be regarded as trusts for the benefit and at the risk of the purchasers: consequently, after deducting the rent due and the expense of attaching, any surplus that may be yielded by the collections shall be held in deposit for such purchaser: but, if the collections for the time fall short of the rent, the tenure and person of the proprietor shall be liable in the same manner as if no attachment had been made, and the accounts produced by the zamindar or other superior making the attachment shall be received as *prima facie* evidence to warrant process for an arrear so accruing.

Attachments to have effect of trust.

[1] 8. *First*.—Zamindars, that is, proprietors under direct engagements with the Government, shall be entitled to apply in the manner following for

Zamindars allowed sales of tenures, in which right

[1] As to the officer who should conduct sales of tenures of the nature of those described in clause *first* of section 8 of Reg. 8 of 1819, see the Bengal Patni Taluks Regulation, 1820 (1 of 1820), s. 2, *post*, p. 172, and the Bengal Rent Recovery (Under-tenures) Act, 1865 (Ben. Act 8 of 1865), s. 3, *post*, p. 232.

At the application of ss. 9, 11, 13, 15 and 17 of Reg. 8 of 1819, to such sales, see the Bengal Patni Taluks Regulation, 1820 (1 of 1820), s. 2 (8), *post*, p. 172.

to sell for
arrears is
reserved.

periodical sales of any tenures upon which the right of selling or bringing to sale for an arrear of rent may have been specially reserved by stipulation in the engagements interchanged on the creation of the tenure.

The exercise of this power shall not be confined to cases in which the stipulation for sale may have been unrestricted in regard to time, but shall apply equally to tenures held under engagements stipulating merely for a sale at the end of the year, in conformity with the practice heretofore allowed by the Regulations in force.

First sale to
be applied
for on first
of Baisakh.

Second.—On the first day of Baisakh, [1] that is, at the commencement of the following year from that of which the rent is due, the zamindar shall present a petition * * * [2] to the Collector [3], containing a specification of any balances that may be due to him on account of the expired year, from all or any talukdárs or other holders of an interest of the nature described in the preceding clause of this section.

The same shall then be stuck up in some conspicuous part of the cutcherry with a notice that, if the amount claimed be not paid before the first of Jeth[4] following, the tenures of the defaulters will on that day be sold by public sale in liquidation.

Should, however, the first of Jeth [4] fall on a Sunday or holiday, the next subsequent day, not a holiday, shall be selected instead; a similar notice shall be stuck up at the sadar cutcherry of the zamindar himself, and a copy or extract of such part of the notice as may apply to the individual case shall be by him sent to be similarly published at the cutcherry or at the principal town or village upon the land of the defaulter.

The zamindar shall be exclusively answerable for the observance of the forms above prescribed, and the notice required to be sent into the mufasssal shall be served by a single peon, who shall bring back the receipt of the defaulter, or of his manager, for the same, or, in the event of inability to procure this, the signatures of three substantial persons residing in the neighbourhood, in attestation of the notice having been brought and published on the spot.

If it shall appear from the tenor of the receipt or attestation in question that the notice has been published at any time previous to the fifteenth of the

[1] The month of Baisakh corresponds with the last part of April and the first part of May.

[2] The words "to the Civil Court of the District, and a similar one", which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[3] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, under the head "Land-revenue".

[4] The month of Jeth corresponds with the last part of May and the first part of June.

of 1819.]

TALUKS REGULATION, 1819.

(Sec. 9.)

month of Baisakh, [1] it shall be sufficient warrant for the sale to proceed upon the day appointed.

In case the people of the village should object or refuse to sign their names in attestation, the peon shall go to the cutcherry of the nearest munsif, or if there should be no munsif, to the nearest thana, and there make voluntary oath of the same having been duly published; certificate to which effect shall be signed and sealed by the said officers and delivered to the peon.

Third.—On the first day of Kartik, [3] in the middle of the year, the zamindar shall be at liberty to present a similar petition, with a statement of any balances that may be due on account of the rent of the current year, up to the end of the month of Assin, [3] and to cause similar publication to be made of a sale of the tenures of defaulters, to take place on the first of Aghan, [4] unless the whole of the advertised balance shall be paid before the date in question, or so much of it as shall reduce the arrear, including any intermediate demand for the month of Kartik, [2] to less than one-fourth or a four-anna proportion of the total demand of the zamindar, according to the kistbandi, calculated from the commencement of the year to the last day of Kartik. [2]

Mid-year sale to be applied for on first of Kartik.

[5] 9. All sales of saleable tenures applied for under the rules of this Regulation shall be made in public cutcherry; [6] * * * the land shall be sold to the highest bidder, and every one, not the actual defaulter, shall be free to bid, not excepting the person in satisfaction of whose demand the sale may be made, nor the under-tenants of the defaulter; fifteen *per cent.* of the purchase-money shall be paid immediately the lot is knocked down, and the officer conducting the sale shall be competent to refuse to accept a bid, or to knock down a lot to any bidder, unless he has assurance to his satisfaction that the amount required to be deposited is in hand for the purpose, or will be produced within two hours.

Sales how conducted.

[1] The month of Baisakh corresponds with the last part of April and the first part of May.

[2] The month of Kartik corresponds with the last part of October and the first part of November.

[3] The month of Assin corresponds with the last part of September and the first part of October.

[4] The month of Aghan corresponds with the last part of November and the first part of December.

[5] As to the extension of the application of s. 9, see the Bengal Panni Taluks Regulation, 1820 (1 of 1820), s. 2 (3), *post*, p. 173.

[6] The words "by the Register or acting Register of the Civil Court, or, in his absence, by the person in charge of the office of Judge or of Magistrate of the district within which the lands may be situated", which were repealed by the Repealing Act, 1874 (15 of 1874), are omitted.

If the fifteen *per cent.* be not paid in cash, or in [1] [currency notes], within two hours of the sale, or an equivalent amount in Government securities be not lodged, the lot shall be re-sold on the same day, and, if the remainder of the purchase-money be not paid by noon of the eighth day, notice shall be given of re-sale on the following day, that is, on the ninth from the first sale, by proclaiming the same by beat of drum through the bazar of the sadar station of the zila, after which the lot shall be re-sold at the appointed time at the risk of the first purchaser, who shall forfeit the advance of fifteen *per cent.* already made, [2]* * and be further answerable for any sum in which the proceeds of the second sale may fall short of the antecedent one; such deficiency to be levied by the process for the execution of decrees of the Civil Courts.

Forms to be
observed in
selling.

10. At the time of the sale the notice previously stuck up in the cutcherry shall be taken down, and the lots be called up successively in the order in which they may be found in that notice.

A person shall attend on the part of the zamindar, with a particular statement of the payments made up to the day of sale, on account of the balance of each advertised lot, together with the receipt for, or certificate of, the notice directed to be published in the mufassal, nor shall any lot be put up to sale until the statement produced shall have been inspected, and the existence of a balance for the year ascertained therefrom, nor until the receipt for the notice shall have been read; the observance of which forms shall be recorded in a separate rubakari to be held upon each lot sold.

If the sale be of the description provided for in the third clause of section 8 of this Regulation, the kistbandi of the defaulter shall likewise be produced, in order that it may be seen that the balance remaining unpaid exceeds a four-anna proportion of the demand up to the date of sale; nor shall the sale take place unless this be ascertained.

The zamindar shall be exclusively responsible for the correctness and authenticity of the papers to be thus exhibited, nor shall the public officer making the sale be answerable in any respect, except for its fairness and publicity, and for the observance of the rules prescribed for his guidance in this Regulation.

[1] The words "currency notes" in s. 9 were substituted for the words "notes of the Bank of Bengal" by the Repealing and Amending Act, 1903 (1 of 1903), printed in Vol. I, p. 18.

[2] The words "(which shall be in such case regarded as part of the proceeds of the sale)", in s. 9, which were repealed by the Forfeited Deposits Act, 1950 (25 of 1950), are omitted. As to the application of forfeited deposits, see s. 3 of that Act, *post*, p. 174.

of 1819.]

TALUKS REGULATION, 1819.

(Secs. 11-12.)

[1] 11. *First.*—It is hereby declared that any taluk or saleable tenure that may be disposed of at a public sale, under the rules of this Regulation, for arrears of rent due on account of it, is sold free of all incumbrances that may have accrued upon it by act of the defaulting proprietor, his representatives or assignees, unless the right of making such incumbrances shall have been expressly vested in the holder by a stipulation to that effect in the written engagements under which the said taluk may have been held.

Tenure to be sold free of incumbrance by act of defaulter.

No transfer by sale, gift or otherwise, no mortgage or other limited assignment, shall be permitted to bar the indefeasible right of the zamindar to hold the tenure of his creation answerable, in the state in which he created it for the rent, which is in fact his reserved property in the tenure, except the transfer or assignment should have been made with a condition to that effect, under express authority obtained from such zamindar.

Second.—In like manner, on sale of a taluk for arrears, all leases originating with the holder of the former tenure, if creative of a middle interest between the resident cultivators and the late proprietor, must be considered to be cancelled, except the authority to grant them should have been specially transferred; the possessors of such interests must consequently lose the right to hold possession of the land and to collect the rents of the raiyats; this having been enjoyed merely in consequence of the defaulter's assignment of a certain portion of his own interest, the whole of which was liable for the rent.

No underlease to stand after sale.

Third.—Provided, nevertheless, that nothing herein contained shall be construed to entitle the purchaser of a taluk or other saleable tenure intermediate between the zamindar and actual cultivators to eject a khudkast raiyat or resident and hereditary cultivator, nor to cancel *bond fide* engagements made with such tenants by the late incumbent or his representative, except it be proved in regular suit, to be brought by such purchaser, for the adjustment of his rent, that a higher rate would have been demandable at the time such engagements were contracted by his predecessor.

Exception in favour of *bond fide* engagements with raiyats.

12. The rules of the preceding section, being declaratory of the principle to be observed on all occasions wherein saleable tenures are made responsible for the zamindar's reserved rent, will equally apply to the case of taluks, heretofore sold, as to those that may be sold henceforward, if the sale shall have been fair, and the process observed in conducting it shall have been that recognized and in use in the district at the time of selling.

Above rule to take effect retrospectively.

Nothing, however, herein contained shall operate to the prejudice of any

Proviso.

[1] As to the extension of the application of s. 11, see the Bengal Patti Taluks Regulation, 1820 (1 of 1820), s. 2 (3). *post*, p. 173.

agreement, express or implied, now subsisting between the purchaser of a taluk and the lessees of his predecessor.

Rule not to
apply to
private
transfers.

Neither shall the rule for the fall of under-tenures be considered to apply to any private transfer by a talukdár of his own interest, nor to a public sale in execution of a decree, nor to the case of a relinquishment by the talukdár in favour of the zamindar, nor to any act originating with the former holder, other than default as aforesaid: all such operations involve only a transfer of the tenure in the state in which it may be held at the time, and the new incumbent succeeds to no more than the reserved rights of the former tenant, such as they may be, and is of course subject to any restriction put upon the tenure by his act.

and

Reason for
allowing
under-tenants
means of
staying sale.

[1] 13. *First*.—With reference to the injury that may be brought upon the holder of a taluk of the second degree by the operation of the preceding rules, in case the proprietor or the superior tenure purposely withholds the rent due from himself to the zamindar after having realized his own dues from the inferior tenantry, it is deemed necessary to allow such talukdárs the means of saving their tenures from the ruin that must attend such a sale; and the following rules have accordingly been enacted for this purpose.

How under-
tenants may
stay sale.

Second.—Whenever the tenure of a talukdar of the first degree may be advertised for sale in the manner required by the second and third clauses of section 8 of this Regulation, for arrears of rent due to the zamindar, the talukdárs of the second degree, or any number of them, shall be entitled to stay the final sale, by paying into Court the amount of balance that may be declared due by the person attending on the part of the zamindar on the day appointed for sale; in like manner they shall be entitled to lodge money antecedently, for the purpose of eventually answering any demand that may remain due on the day fixed for the sale, and, should the amount lodged be sufficient, the sale shall not proceed, but, after making good to the zamindar the amount of his demand, any excess shall be paid back to the person or persons who may have lodged it.

Procedure in
case of
amount
lodged being
rent due
from under-
tenant;

Third.—If the amount so lodged shall be rent due by the inferior talukdár to the holder of the advertised tenure, the same shall be stated at the time of making the deposit, and the amount shall be carried to the account of the tenant or tenants lodging it, and be deducted from any claim of rent that may at the time be pending, or be thereafter brought forward against him or

[1] As to the extension of the application of s. 13, see the Bengal Patni Taluk Regulation, 1820 (1 of 1820), s. 2 (3), *post*, p. 173, and the Bengal Rent Recovery (Under-tenures) Act, 1865. (Ben Act 8 of 1865), *post*, p. 231.

of 1819.]

TALUKS REGULATION, 1819.

(Sec. 14.)

them by the proprietor of the advertised tenure, on account of the year or months for which the notice of sale may have been published.

Fourth.—If the person or persons making such a deposit, in order to stay the sale of the superior tenure, shall have already paid the whole of the rent due from himself or themselves, so that the amount lodged is an advance from private funds, and not a disbursement on account of the said rent, such deposit shall not be carried to credit in, or set against, future demands for rent, but shall be considered as a loan made to the proprietor of the tenure preserved from sale by such means, and the taluk so preserved shall be the security to the person or persons making the advance, who shall be considered to have a lien thereupon, in the same manner as if the loan had been made upon mortgage; and he or they shall be entitled, on applying for the same, to obtain immediate possession of the tenure of the defaulter, in order to recover the amount so advanced from any profits belonging thereto.

and in case of amount lodged being advance from private funds.

If the defaulter shall desire to recover his tenure from the hands of the person or persons who, by making the advance, may have acquired such an interest therein, and entered on possession in consequence, he shall not be entitled to do so, except upon repayment of the entire sum advanced, with interest at the rate of twelve *per cent. per annum* up to the date of possession having been given as above, or upon exhibiting proof, in a regular suit to be instituted for the purpose, that the full amount so advanced, with interest, has been realized from the usufruct of the tenure.

14. *First.*—Should the balance claimed by a zamindar on account of the rent of any under-tenure remain unpaid upon the day fixed for the sale of the tenure, the sale shall be made without reserve, in the manner provided for in sections 9 and 10 of this Regulation; nor shall it be stayed or postponed on any account, unless the amount of the demand be lodged.

Sale not to be stayed unless arrear claimed be lodged.

It shall, however, be competent to any party desirous of contesting the right of the zamindar to make the sale, whether on the ground of there having been no balance due, or on any other ground, to sue the zamindar for the reversal of the same, and, upon establishing a sufficient plea, to obtain a decree with full costs and damages.

But suit to lie for its reversal.

The purchaser shall be made a party in such suits, and, upon decree passing for reversal of the sale, the Court shall be careful to indemnify him against all loss, at the charge of the zamindar or person at whose suit the sale may have been made.

Second.—In cases also in which talukdár may contest the zamindar's demand of any arrear, as specified in the notice advertised, such talukdár

Defaulter may apply

(Sec. 1)

for summary investigation.

shall be competent to apply for a summary investigation at any time within the period of notice ; the zamindar shall then be called upon to furnish his kabuliyat and other proofs at the shortest convenient notice, in order that the award may, if possible, be made before the day appointed for sale.

Sale not to be stayed unless amount claimed be deposited.

Such award, if so made, will of course regulate the ulterior process ; but, if the case be still pending, the lot shall be called up in its turn, notwithstanding the suit ; and, if the zamindar or his agent in attendance insist on the demand, the sale shall be made on his responsibility, nor shall it be stayed, or the summary suit be allowed to proceed, unless the amount claimed be lodged in cash, or in Government securities, or in [1] [currency notes], by the talukdár contesting the demand ; and if such deposit be not made, the alleged defaulter will have no remedy but by a regular action for damages and for a reversal of the sale.

Delivery of possession to purchaser.

[2] 15. *First*.—So soon as the entire amount of the purchase-money shall have been paid in by the purchaser at any sale made under this Regulation, such purchaser shall receive from the officers conducting the sale a certificate of such payment.

The purchaser shall then proceed with the certificate in question to procure a transfer to his name in the cutcherry of the zamindar, and upon furnishing security, if required, to the extent of half the jama or annual rent, he shall receive the usual “amaldustauk” or order for possession, together with the notice to the raiyats and others to attend and pay their rents henceforward to him.

The zamindar shall also be bound to furnish access to any papers connected with the tenure purchased that may be forthcoming in his cutcherry ; and should he in any manner delay the transfer in his office, or refuse to give the orders for possession, notwithstanding that good and substantial security shall have been furnished or tendered on requisition, the new purchaser shall be entitled to apply direct to the Court,[3] and he shall receive the orders for possession, and shall be put in possession, of the lands by means of the nazir, in the same manner as possession is obtained under a decree of Court :

Provided, however, that, if the delay be on account of the zamindar's

[1] The words “currency notes” in s. 14 (2) were substituted for the words “notes of the Bank of Bengal” by the Repeeling and Amending Act, 1908 (1 of 1908), printed in Vol. I, p. 18.

[2] As to the extension of the application of s. 15, see the Bengal Patni Taluks Regulation, 1820 (1 of 1820), s. 2 (3), *post*, p. 172.

[3] As to the substitution of the Collector for the Court, see the Bengal Rent Recovery (Under-tenures) Act, 1865 (Ben. Act 8 of 1865), s. 2, *post*, p. 222.

of 1819.]

TALUKS REGULATION, 1819.

(Sec. 17.)

contesting the sufficiency of the security tendered, the rule contained in section 6 of this Regulation shall be observed.

Second.—When the new purchaser shall proceed to take possession of the lands of his purchase, if the late incumbent himself, or the holders of tenures or assignments derived from the late incumbent, and intermediate between him and the actual cultivators, shall attempt to offer opposition, or to interfere with the collections of the new purchaser, from the lauds composing his purchase, the latter shall be at liberty to apply immediately to the Civil Court [1] for the aid of the public officers in obtaining possession of his just rights.

Procedure in case of opposition to purchaser.

A proclamation shall then issue under the seal of the Court and signature of the Judge [1] declaring that the new incumbent having, by purchase at a sale for arrears of rent due to the zamindar, acquired the entire rights and privileges attaching to the tenure of the late talukdár, in the state in which it was originally derived by him from the zamindar, he alone will be recognized as entitled to make the zamindari collections in the mufassal, and no payments made to any other individual will on any account be credited to the raiyats or others in any * [2] suit for rent * * * [3] or on any other occasion whatever when the same may be pleaded.

Third.—Should the late incumbent or his late under-tenants continue to oppose the entry of the new purchaser, notwithstanding the issuing of such a proclamation, or should there be reason to apprehend a breach of the peace on the part of any one, the aid of the police-officers and of all other public officers who may be at hand and capable of affording assistance shall be given to the new purchaser, on his presenting a written application for the same; and in the event of any affray or breach of the peace occurring, the entire responsibility shall rest with the party opposing the lawful attempt of the purchaser to assume his rights.

Procedure in case of continued opposition.

16. [Sale of Under-tenures for arrears.] *Rep. by the Bengal Rent Recovery (Under-tenures) Act, 1865 (Ben. Act 8 of 1865).*

[4] 17. *First.*—The following rules have been enacted for the disposal of the proceeds of any sale made under the rules of this Regulation.

Disposal of proceeds of

[1] As to the substitution of the Collector for the Court, see the Bengal Rent Recovery (Under-tenures) Act, 1865 (Ben. Act 8 of 1865), s. 3, *post* p. 232.

[2] The word "summary", which was repealed by the Repealing Act, 1874 (16 of 1874), is omitted.

[3] The words and figures "brought under the provisions of section 15, Regulation 7, 1799, or in any application to stay process by distraint, under the rules of Regulation 5, 1812," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[4] As to the extension of the application of s. 17, see the Bengal Patni Taluk Regulation, 1820 (1 of 1820), s. 2 (3), *post*, p. 173.

Deduction
on account
of Govern-
ment.

Second.—One *per cent.* shall first be deducted from the net proceeds realized, and shall be carried to the account of Government, for the purpose of meeting the expense of any extra establishments which it may be necessary to maintain for carrying into effect the provisions of this Regulation.

Payment to
zamindars.

Third.—The balance on account of which the sale may have been made shall next be made good in full (with interest and all charges incurred in bringing the taluk to sale) to the zamindar or other person to whom the same may be due :

Provided, however, that no former balances, beyond those of the current year (or of that immediately expired, if the sale be at the commencement of the following year), shall be included in the demand to be thus satisfied. Such antecedent balances, if the zamindar shall have omitted to avail himself of the process within his reach for having them satisfied at the time, will have become in fact mere personal debts of the individual talukdár, and must be recovered in the same way as other debts by a regular suit in the Court.

Disposal of
remainder.

Fourth.—Any excess that may remain after satisfying the demand of the zamindar, in the manner above described, shall be forthwith sent by the officer conducting the sale to the treasury of the Collector or Assistant Collector of the district, to be there held in deposit to answer the claims of the talukdárs of the second degree, or of others who, by assignment of the defaulter, may be at the time in possession of a valuable interest on the land composing the taluk sold, or on any part of it.

Under-
tenants free
to prosecute
for price of
their inter-
est or com-
pensation.

Fifth.—It shall be competent to any one conceiving himself to possess such an interest to bring forward his claim to the price he may have paid for the same, or for a just compensation for the loss sustained by him in consequence of the sale, by instituting a regular suit at any time within two months from the date of sale.

If the Court shall, on investigation, consider the plaintiff's claim to be an equitable one, the Court will award to the claimant either the price he may have originally paid, or the value of the interest at the time of sale, or any other amount that may be deemed just and equitable under all the circumstances.

If there be more claimants than one, payment shall not be made from the deposit until the whole of the claims be settled; and, in case the value assessed upon the whole should exceed the amount in deposit, such amount shall be divided proportionately, and the remainder stand as a personal

of 1819.]

TALUKS REGULATION, 1819.

(Sec. 17.)

debt against the defaulter, to be from him by the usual process for the execution of decrees.

Sixth.—Provided, however, that no talukdār of the second degree or other possessor of an assigned interest upon the land of the tenure sold, who may be holding under a stipulation for the payment of an annual amount in the way of rent, shall be entitled to recover compensation for the loss of such tenure or assignment upon its becoming cancelled by sale of the superior taluk, except after exhibiting proof that the whole amount of the rent demandable from himself has been paid or lodged for the purpose prior to the date of sale.

Suit to be if under-tenant be himself in arrear time of sale.

Seventh.—Should no claims upon the purchase-money of a taluk sold as above be brought forward by any under-tenants or assignees within the period of two months from the date of sale, or should the amount claimed by those who may have sued not equal the entire deposit, the defaulter whose tenure may have been sold shall be at liberty to petition the Court for the amount so held in deposit, or for the excess thereof, as the case may be, and he shall receive a certificate under the seal of the Court, of there being no claims to afford ground of detention for the whole or any part of the deposit; and, upon exhibiting such certificate to the Collector, [1] the amount set free thereby shall be paid to his receipt.

When defaulter to receive excess unclaimed.

In the same manner, upon executing a decree passed in favour of any under-tenants or assignees, they shall receive certificates under the seal of the Court, declaring the amount adjudged to them out of the deposit; and upon exhibiting these certificates the amount shall be paid severally to their receipts by the Collector. [1]

Eighth.—It shall be competent to any party interested in a deposit to withdraw the whole or any part thereof on substituting Government securities, bearing interest, in lieu of the money so held in deposit; such securities to be taken at the rate of discount or premium of the day * * * [2].

Substitution of Government securities for cash in deposit.

18, 19.—[*Rules regarding attachment of land of defaulter; summary process against person of defaulter.*] Rep. by the Bengal Rent Act, 1859 (Act 10 of 1859).

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (Ben. Reg. 7 of 1822), s. 35, printed post, under the head "Land-revenue."

[2] The words "as shown by the Government Gazette last received", which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

THE BENGAL PATNI TALUKS REGULATION, 1820. [Reg. 1 of 1820.]

(Secs. 2.)

THE BENGAL PATNI TALUKS REGULATION, 1820 [1]
(REGULATION I OF 1820).

[11th January, 1820.]

A Regulation for providing that a sales of certain taluks made answerable by sale for arrears of the zamindar's rent shall be conducted in the mode prescribed by Regulation 8, 1819, [2] for the sales therein described.

Preamble.

1. WHEREAS it has been omitted to provide in the rules of Regulation 8, 1819, [2] whether, in case the proprietor of an estate paying revenue to Government should desire to bring to sale a saleable tenure of the nature defined in clause *first*, section 8, of that Regulation, for the realization of arrears of rent due thereupon, by any legal process other than that prescribed by the second and third clauses of the said section, such sale should be made in the public manner provided for the periodical sales therein described;

And whereas it is consonant with justice, and was intended by the said Regulation, that, in every case of the sale of such tenures for arrears of the zamindar's rent, the sale should be public, for the security of the interests of the owner of the tenure sold, which object can in no manner be duly secured except the sales to be so made be conducted by an officer of Government in the same manner as the periodical sales provided for by section 8 of the said Regulation;

the following additional rule has accordingly been passed by the Governor General in Council, to take effect, from the date of its promulgation, within the several districts of Bengal, including Midnapur:—

Rules of Reg.
8, 1819, for
periodical
sales for
zamindar's

2. *First*.—Whenever the proprietor of an estate paying revenue to Government shall desire to cause any tenure of the nature of those described in clause *first*, section 8, Regulation 8, 1819, [2] to be sold for arrears of rent due to him

[1] SHORT TITLE.—This short title was given by the Amending Act, 1897 (5 of 1897). Sch. III, printed in General Acts, 1891-98, Ed. 1899, p. 299.

LOCAL EXTENT.—This Regulation extends to the whole of Bengal—see the last clause of section 1.

The Regulation is in force in the Sonthal Parganas—see Vol. V, Part VI B (c); but its application in the other de-regulationised tracts in Bengal is barred as follows, namely:—

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), section 3 (2), printed in Vol. I, p. 257, and

in the Chittagong Hill tracts, by the Chittagong Hill tracts Regulation, 1890 (1 of

REPRINT.—This Regulation is reprinted in the Sale Law Manual, 1902, pp. 84, 85.

OTHER ENACTMENTS.—For a list of other enactments dealing with patni taluks, see footnote [1] on page 155, ante.

[2] The Bengal Patni Taluks Regulation, 1819. It is printed ante, p. 155.

[Reg. 1 of 1820.] THE BENGAL PATNI TALUKS REGULATION, 1820.

(Sec. 2.)

[Act 25 of 1850.] THE FORFEITED DEPOSITS ACT, 1850.

(Preamble.)

on account thereof, and shall, under any summary process authorized by [1] [law] have acquired the right of causing such sale to be made, the same shall be conducted, after application from the zamindar, by the Register or acting Register of the Zila * * [2] Court, or in his absence, by the person in charge of the office of Judge of the district [3] in the mode prescribed by Regulation 8 above quoted for periodical sales. arrears of rent, extended to other sales for rent.

Second.—Ten days' notice shall be given before proceeding to sale, by proclamation to be stuck up at the outcherry of the Court and at that of the Collector of the district. Notice by proclamation.

Third.—The rules of sections 9, 11, 13, 15 and 17, Regulation 8, 1819, [4] are extended to all sales made after the manner herein provided. Rules extended to sales hereunder.

THE FORFEITED DEPOSITS ACT, 1850 [5]

(ACT 25 OF 1850).

[14th June, 1850.]

An Act for the forfeiture to Government of deposits made on incomplete sales of land under Regulation 8, 1819 * * * [6].

WHEREAS patnidars * * * [7] fraudulently avail themselves Preamble.

[1] The word "law", in s. 2 (1), was substituted for the words "the general Regulations" by the Repealing and Amending Act, 1903 (1 of 1903), printed in Vol. I, p. 18.

[2] The words "or City", which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

[3] As to the substitution of "the Collector of Land-revenue" for "the Judge," see the Bengal Rent Recovery (Under-tenures) Act, 1865 (Ben. Act 8 of 1865), s. 3, *post*, p. 282.

[4] The Bengal Patni Taluks Regulation, 1819. It is printed *ante*, p. 155.

[5] SHORT TITLE.—This short title was given by the Amending Act, 1897 (5 of 1897), Sch. III, printed in General Acts, 1891-98, Ed. 1899, p. 295.

LOCAL EXTENT.—As this Act supplements Reg. 8 of 1819, its local extent must be taken to be the same as that of the Regulation, as to which see foot-note [2] on p. 155, *ante*.

The Act has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the following Scheduled Districts, namely:—

the Hazaribagh, Ranchi, Palamu and Manbhum Districts, and Pargana Dhalbhum and the Kolhan in the Singhbhum District, in the Chota Nagpur Division—see Vol. V, Part V B (b).

The Act is in force in the Sonthal Parganas—see Vol. V, Part VI B (c); but its application in the other de-regulationised tracts in Bengal is barred as follows, namely:—

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), s. 3 (2), printed in Vol. I, p. 257.

[6] The words and figures "and Act 4, 1843", in the title, which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

[7] The words "and judgment-debtors", in the preamble, which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

THE FORFEITED DEPOSITS ACT, 1850. [Act 25 of 1850.]

(Sec. 2.)

THE RENT RECOVERY ACT, 1853. [Act 6 of 1853.]

(Preamble.)

of the provision [1] in section 9, Regulation 8, 1831, [2] of the Bengal Code * * * * [3] that forfeited deposits at sales of land * * * [4] for arrears of rent shall be applied as if they were purchase-money; It is enacted as follows:—

1. [Repeals.] *Rep. by the Repealing Act, 1870 (14 of 1870).*

2. Any such forfeited deposit shall be applied to defray the expenses of the sale, and the surplus shall be forfeited to Government.

Application
of forfeited
deposits.

THE RENT RECOVERY ACT, 1853 [5]

(ACT 6 OF 1853).

[15th April, 1853.]

An Act relating to summary suits for arrears of rent, to sales of patni taluks and other saleable tenures, and to sales of land in satisfaction of summary decrees for rent.

Preamble,

WHEREAS, by Regulation 8, 1831, [6] of the Bengal Code the hearing and decision of summary suits or claims relating to arrears or exactions of rents were transferred from the Judges of the Zila or City Courts to the Collectors of land-revenue of the several districts

[1] The provision referred to was repealed by s. 1 of the present Act.

[2] The Bengal Patni Taluks Regulation, 1819. It is printed *ante*, p. 155.

[3] The words and figures "and in section 5, Act 4, 1846", which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

[4] The words "in execution of decrees or", which were repealed by the same Act, are omitted.

[5] SHORT TITLE.—This short title was given by the Amending Act, 1897 (5 of 1897), Sch. III, printed in General Acts, 1891-98, Ed. 1899, p. 295.

LOCAL EXTENT.—This Act contains no local extent clause, but the intention probably was that it should extend to the same areas as the enactments cited in the preamble.

The Act has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the following Scheduled Districts, namely:—

the Hazaribagh, Ranchi, Palamau and Manbhum Districts, and Pargana Dhalbhum and the Kolhan in the Singhbhum District, in the Chota Nagpur Division—*see* Vol. V, Part V B (b).

The Act is in force in the Sonthal Parganas—*see* Vol. V, Part VI B (c); but its application in the other de-regulationised tracts in Bengal is barred as follows, namely:—

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), s. 3 (2), printed in Vol. I, p. 257.

[6] Ben. Reg. 8 of 1831 was repealed by the Bengal Rent Act, 1859 (10 of 1859)

[Act 6 of 1853.] THE RENT RECOVERY ACT, 1853.

(Sec. 1.)

And whereas by Regulation 7, 1832, [1] of the Bengal Code the conduct of sales of patni taluks and other saleable tenures under Regulations 8, 1819, [2] and 1, 1820, [3] of the same Code, and the performance of other acts preparatory to, or connected with, such sales, were transferred to the Collector or Deputy Collector of Land-revenue or head assistant to the Collector or Deputy Collector, subject to an appeal as therein provided ;

And whereas by Act 8, 1835, [4] the power theretofore vested in the Judge of the Diwāni Adālat of selling land in satisfaction of summary decrees for rent was transferred to the Collectors of land-revenue, and it was enacted that all sales for the recovery of arrears of rent held under clause 7, section 15, Regulation 7, 1799, [4] should be conducted by the Collector, his Deputy or duly authorized Assistant, and that ten days' notice should be given of such sales by advertisement to be stuck up at the catcherry of the Zila Court or local Adālat and that of the Collector * * * * [5] ;

And whereas doubts may be entertained as to who ought to exercise the jurisdiction transferred by the above-mentioned Regulations and Acts, where lands situate within the zila or other district of one Collector form part of an entire estate paying revenue to the Collector of another zila or district :

in order therefore to avoid such doubts, and also to define who are the proper officers to exercise such jurisdictions in cases where lands are situate in a district assigned to an independent Deputy Collector, and also in cases where lands held in patni or other tenure at one entire rent are situate in two or more collectorates * * * * [6] ; It is enacted as follows :—

1. If the lands which may be the subject of any such sale, or to the rent of which any such suit may relate, be all situate in one collectorate, the Collector of such collectorate is the Collector to conduct the sale or to hear and decide the suit.

Conduct of sale of lands when all in one collectorate ;

If one taluk or tenure shall comprise lands situate in two or more collectorates, or if any lands situate in two or more collectorates, when in two lease or engagement or at one entire rent, the Collector in whose collectorate the greater part of such lands shall be situate is the Collector to conduct the

[1] Ben. Reg. 7 of 1832 was repealed by the Bengal Civil Courts Act, 1871 (6 of 1871).

[2] The Bengal Patni Taluks Regulation, 1819. It is printed *ante*, p. 155.

[3] The Bengal Patni Taluks Regulation, 1820. It is printed *ante*, p. 172.

[4] Act 8 of 1835 and Reg. 7 of 1799 were repealed by the Repealing Act, 1874 (16 of 1874).

[5] Portion of the preamble relating to Act 25 of 1850 and Reg. 8 of 1819, s. 2, which was repealed by the Repealing and Amending Act, 1891 (12 of 1891), is omitted.

[6] The words "and to prevent any such decision or sale already made from being held invalid upon the ground of its having been made by an officer of a wrong district", which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

sale of such taluk or tenure or of such lands, and to hear and decide any summary suit relating to arrears or exactions of rent in respect thereof.

Procedure in case of doubt as to officer having jurisdiction.

2. If a Collector to whom application shall be made to exercise any of the powers above-mentioned shall entertain any doubt as to whether the lands or the greater part of them are situate within his collectorate, he shall report the case for the order of the Board to which he is subordinate, and, if ordered by such Board to proceed in the matter, such order shall be conclusive upon the question of his jurisdiction.

"Collectorate" defined.

3. The word "Collectorate" in this Act means the zila or other district to which a Collector is appointed, and no lands situate beyond the limits of such zila or district shall be deemed to be situate within the collectorate by reason of their forming part of an estate paying revenue to the Collector thereof.

Powers and jurisdiction of independent Deputy Collector.

4. An independent Deputy Collector may, within his deputy collectorate, exercise all the powers and jurisdictions of a Collector with which he may be entrusted, in the same manner and to the same extent as a Collector may do within his collectorate; and, with reference to the exercise of such powers and jurisdictions, his deputy collectorate shall be deemed a collectorate, and he shall be deemed to be a Collector within the meaning of this Act.

"Independent Deputy Collector."

5. An independent Deputy Collector is an officer appointed by Government to act as Deputy Collector independently of a Collector, whether his office is one for the receipt of revenue or not.

"Deputy collectorate."

A deputy collectorate is the district within which an independent Deputy Collector is directed by Government to act.

Publication of notice of sale by independent Deputy Collector.

6. In cases of sales by an independent Deputy Collector under the above-mentioned Regulations or Act, any notice thereby required to be stuck up at the outcherry of the Collector may be stuck up at the cutcherry of the Deputy Collector.

Exercise of powers of independent Deputy Collector.

7. An independent Deputy Collector may exercise the powers assigned to him over any part of his deputy collectorate in public cutcherry, in whatever part of his deputy collectorate the same may be situate or held.

Publication of notice required by law to be advertised.

8. Any notice required by the above-mentioned Regulations or Act to be given by advertisement to be stuck up at the cutcherry of the Zila Court or local Adalat shall be stuck up at the Zila Court or local Adalat within the jurisdiction of which the lands to be sold, or the greater portion of them, as the case may be, shall be situate.

9. [Order, etc., not to be disputed on ground that Collector was not the Collector of proper district.] Rep. by the Repealing Act, 1873 (12 of 1873).

[Act 8 of 1853.] THE RENT RECOVERY ACT, 1853.

[Act 10 of 1859.] THE BENGAL RENT ACT, 1859.

10. [*Extension of certain enactments to all sales under Act 8 of 1853.*
Rep. by the Bengal Rent Recovery (Under-tenures) Act, 1865 (Ben. Act 8 of 1865).]

THE BENGAL RENT ACT, 1859

(ACT 10 OF 1859).

*Bengal
Vol. I,*

ARRANGEMENT OF SECTIONS.

Preamble.

SECTION.

1. [*Repealed.*]
2. Raiyat entitled to patta.
3. Raiyats holding land at fixed rates to receive pattas.
4. If rent of land be not charged for twenty years.
5. Raiyats having right of occupancy, but not holding at fixed rates, to receive pattas.
6. Right of occupancy of raiyat cultivating or holding land for twelve years.
7. Saving of terms of written contracts.
8. Pattas to raiyats not having rights of occupancy.
9. Person granting patta entitled to counterpart engagement
10. Exactions in excess of rate or receipt withheld.
Form of receipt.
11. Landholder not to compel attendance of tenant for adjustment of rent, etc.
Payment of rent how enforced.
12. Damages for extorting payment of rent by duress.
13. Enhancement of rent of raiyat holding without, or after expiry, etc., of written engagement
14. Mode of contesting enhancement of rent.
15. Dependent talukdar, etc. holding at fixed rent without change since permanent settlement not liable to enhancement.
16. Rent of talukdar, etc., not changed for twenty years to be *prima facie* evidence of occupancy at that rent since permanent settlement.
17. Rent of raiyat having right of occupancy not to be enhanced unless—
rate paid by him is below that prevailing in adjacent places;
value of land, etc., has increased independently of raiyat;
quantity of land held by raiyat is greater than he has paid rent for.
18. When raiyat may claim abatement of rent.
19. Relinquishment of land by raiyat after notice.

SECTION.

20. What to be deemed arrear of rent.
21. Liability of raiyat to be ejected for arrears due.
Proviso.
22. Liability of farmer to have lease cancelled for arrear adjudged due.
Proviso.
23. Cognizance of suits under Act.
24. Suits by zamindars against agents for money or accounts.
25. Ejectment of cultivators, farmers, etc., by zamindars.
Proviso.
26. [*Repealed.*]
27. Registry of transfers of taluks, etc.
Proviso.
28. Applications to dispossess grantees of land exempt from revenue.
29. Suits by or against sarbarahkars or tahsildars of estates held khas.
30. Commencement of—
suits generally ;
31. suits for grant of pattas, etc.;
32. suits for arrears of rent.
Proviso.
33. Suits against agents for money, papers or accounts.
Proviso.
34. Mode of instituting suits. Form of plaint or statement of claim.
35. Statement by whom presented.
36. Verification of statement.
Punishment for false verification.
- 37.
38. Documentary evidence to be produced by plaintiff.
39. Production of document required plaintiff from defendant.
40. [*Repealed.*]
41. Plaint in suit for ejectment of raiyat, etc., or for recovery of occupancy or possession of land, etc.
42. Statement may be returned or allowed to be amended.
43. Issue of summons ; personal attendance of defendant may be required.
44. Day to be specified in summons to be fixed. Defendant to produce necessary documents, and bring witnesses willing to attend without process.
45. Summons how served.
46. Endorsement by nazir on summons.
47. Execution of process in other districts.
48. Cost of serving summons or warrant to be deposited.
49. Warrant of arrest in what cases issued.
50. Procedure after arrest of defendant.
51. Procedure on defendant being brought before Collector.
Form of security-bond.
52. Procedure if warrant cannot be executed.
53. Compensation for arrest applied for without reasonable cause.
54. Consequence of neither party appearing on day of trial.

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THE BENGAL RENT ACT, 1859.

SECTION.

55. When Collector to pass judgment by default; and when to decree upon admission.
Proviso.
56. If plaintiff only appear, Collector may proceed *ex parte*.
57. Defendant appearing at postponed hearing may be heard in answer.
58. Revival, reversal and alteration of decrees *ex parte* or by default.
59. On appearance, parties to be examined by Collector, and may cross-examine each other.
60. Examination of parties; etc.
61. Witnesses to be examined.
62. Documentary evidence to be produced by defendant.
63. After examination, Collector may make decree if no further evidence required.
64. Consequence of inability of agent to answer.
65. If necessary, Collector to record issue and to fix day for hearing further evidence.
66. Parties to produce witnesses on day of trial; or Collector, on application, to summon witness.
67. Rules regarding attendance, examination, etc., of witnesses.
68. Consequence of parties not appearing on day fixed for trial of issue.
69. Suits by and against naibs, gumáshtas, etc.
70. Personal attendance when not required.
71. Employment of authorized agents or mukhtárs.
72. Collector may grant time or adjourn hearing.
73. Collector may cause local inquiry to be made.
74. [Repealed.]
75. No interest on deposits.
76. Collector when to fix term for which patta is to be granted.
Proviso.
77. In suits for rent, third person claiming to be made party.
Proviso.
78. Suits for ejectment or cancelment of lease.
79. [Repealed.]
80. If person required by decree refuse to grant patta, Collector may do so.
81. Refusal to execute kabuliyat as required by decree.
82. Mode of executing decree for ejectment or re-instatement of raiyat.
Punishment for obstructing execution.
83. Execution of decree for cancelment of lease or ejectment or re-instatement of farmer or tenant.
84. When judgment-debtor may be detained or imprisoned without issue of process of execution.
85. Liability of surety on failure to deliver judgment-debtor into custody.
86. [Repealed.]
87. Application for execution in respect of moveable property.
88. Duration of warrant.
89. Second and successive warrants.
90. After one year execution may be made without notice.
91. Notice of execution may be given to representative.

SECTION.

92. Execution after three years from date of judgment.
93. Warrant against person.
Limit of imprisonment.
If arrest be for non-delivery of accounts.
94. No second imprisonment under same judgment.
95. Deposit of diet-money.
96. Payment of diet-money in advance during imprisonment.
97. Diet-money to be costs in suit.
98. List of property taken in execution and proclamation of sale.
99. Custody and sale of moveable property taken in execution.
100. Collector may stay sale of moveable property seized, if third party claim interest therein.
101. Collector to adjudicate such claims.
102. Claimant failing to establish right liable to compensate judgment-creditor.
103. No appeal from order under sections 101, 102.
Proviso.
104. Sale not vitiated by irregularity in publishing or conducting.
Proviso.
105. Sale of transferable tenures in execution of decrees for arrears of rent.
106. If third party claim to be lawful possessor of tenure, Collector to stay sale and to inquire and adjudicate.
Proviso.
107. Mode of adjudicating claims.
108. Execution of decrees given in favour of sharers in undivided estates or tenures.
109. If execution against immoveable property when money-decree cannot be otherwise satisfied.
110. Execution against house or building—
against saleable under tenure;
if it be an estate or a share of an estate.
111. Consequence of objection offered before sale of immoveable property.
112. Produce of land held hypothecated for rent.
Arrears of rent recoverable by distraint under following rules.
Cultivators who have given security exempt from distraint.
Proviso.
113. Distraint when barred.
114. Power of distraint of managers under Court of Wards, etc.
Proviso.
115. Standing crops and crops gathered but not stored liable to distraint.
116. Defaulter to be served with writ of demand, etc., before or at time of distraint.
117. Distress proportionate to arrear.
List of property served on owner.
118. Standing crops, etc., when to be reaped and stored by cultivator, or, if he neglect to do by distrainer.
119. Distrainer may apply for aid to in case of resistance.

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THE BEGAL RENT ACT, 1859.

SECTION.

120. Servants employed to distrain to be furnished with written authority.
121. Distress withdrawn if default tender payment of arrear and expenses prior to sale.
122. Application for sale.
123. Form of application.
Deposit of cost of notice to defaulter.
124. Procedure of amin on receipt of application.
125. Amin to suspend sale on receipt of Collector's certificate of institution of suit.
126. Suit to contest distrainer's demand before notice of sale.
127. Distress withdrawn on receipt of Collector's certificate of execution of bond to pay amount due.
128. On expiration of period fixed in proclamation of sale, if institution of suit to contest demand not certified, sale may proceed.
129. Place and manner of sale of distrained property.
130. If fair price not offered, sale may be postponed and shall be then completed whatever price offered.
131. Payment of purchase-money.
132. Disposal of proceeds of sale.
133. Officers holding sales prohibited from purchasing.
134. Irregularities to be reported to Collector.
Officer not to sell if he find that defaulter has not received notice.
135. Recovery of expenses if amin proceeds to place of sale and no sale takes place.
136. Proceedings of amins, etc., subject to revision and orders of Collectors.
137. Second proclamation of sale.
138. Procedure after institution of suit to contest demand.
139. Owner of property distrained for arrears alleged to be due from another may institute suit against distrainer, etc.
Proviso.
140. Procedure if right to distrain be disputed.
141. Persons prevented from suing in time to save property from sale may sue for damages.
142. Also persons aggrieved by illegal act of distrainer.
143. Unlawful distraint.
144. Time for commencing suits for damages.
145. Resistance of distraint.
146. Service of process.
147. Resistance of process.
148. Place of holding Court.
Proviso.
149. } [Repealed.]
150. }
151. Control of Collectors and Deputy Collectors.
No appeal from orders of Collectors and Deputy Collectors in certain cases.
152. Time for presenting appeals from orders.
153. When appeal allowed in judgment of Collector for money below one hundred rupees.

(Preamble.)

SECTION.

154. Rehearing in suits not open to appeal.
 155. Appeal from decision of Deputy Collector.
 156. Petition of appeal.
 157. Procedure in appeal.
 158. Re-admission of appeal.
 159. Judgment in appeal.
 160. In what suits appeal to lie to Zila Judge.
to Sadar Court.
 161. Presentation and hearing of appeals.
 162. [Repealed.]
 163. No jurisdiction in Collector as to lands beyond district.
 164. Deputy Collector when not to exercise judicial powers.
 165. Powers to be exercised by Assistants to Collectors.
 166. Saving of rights of proprietors as to tenures under Reg. 8, 1819.
 167. [Repealed.]
 168. "Civil Jail" "Nazir."
- Schedule.—Forms A.—G.

THE BENGAL RENT ACT, 1859 [1]

(ACT 10 OF 1859.)

[29th April, 1859.]

AN Act to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal.

Preamble.

WHEREAS it is expedient to re-enact with certain modifications the

[1] SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), printed in Vol. I, p. 18.

LOCAL EXTENT.—This Act applied originally to the whole of Bengal (see the title and section 3), but it has been repealed by the Bengal Tenancy Act, 1885 (8 of 1885), s. 2 (1), (printed *post*, p. 253), in the whole Province except "the town of Calcutta, the Division of Orissa and the Scheduled Districts."

As to the extension of this repeal to the Division of Orissa, see s. 2 (2) of the Act of 1885, *post*, p. 253, the effect of which is that so much of Act 10 of 1859 as is inconsistent with the portions of the Act of 1885 which have been extended to Orissa is repealed in that Division. (except in Angul and the

The extension of the repeal to Scheduled Districts depends upon the terms of notifications extending the Act of 1885 to such districts. Under the terms of the notification extending the Act

Act 10 of 1859 has also been repealed in the Chota Nagpur Division (except the district of Manbhum), by the Chota Nagpur Landlord and Tenant Procedure Act (Ben. Act 1 of 1879), printed *post*, p. 255.

The Act has been declared by notification under the Scheduled Districts Act, 1874 (14 of 1874), section 3, to be in force in the Manbhum District, in the Chota Nagpur Division—*see* Vol. V, Part V B (7).

The application of the Act in the de-regulationised tracts in Bengal is barred as follows, namely:—

1. in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), section 3 (2), printed in Vol. I, p. 257.

2. in the Chittanag Hill tracts, by the Chittanag Hill tracts Regulation, 1900 (1 of 1900), s. 4 (2), printed in Vol. I, p. 258.

3. in the Santal Parganas, by the Santal Parganas Settlement Regulation (3 of 1872), s. 3 (2), as amended by the Santal Parganas Justice and Laws Regulation

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THE BENGAL RENT ACT, 1882.

(*Secs. 2-4.*)

provisions of the existing law relative to the rights of raiyats with respect to the delivery of pattas and the occupancy of land, to the prevention of illegal exaction and extortion in connection with demands of rent, and to other questions connected with the same; to extend the jurisdiction of Collectors, and to prescribe rules for the trial of such questions, as well as of suits for the recovery of arrears of rent, and of suits arising out of the distraint of property for such arrears; and to amend the law relating to distraint; It is enacted as follows:—

1. [*Laws repealed and modified.*] *Rep. by the Repealing Act, 1870 (14 of 1870).*

2. Every raiyat is entitled to receive, from the person to whom the rent of the land held or cultivated by him is payable, a patta containing the following particulars:—

Raiyat entitled to patta.

the quantity of land; and, where fields have been numbered in a Government survey, the number of each field;

the amount of annual rent;

the instalments in which the same is to be paid;

and any special conditions of the lease;

if the rent is payable in kind, the proportion of produce to be delivered and the time and manner of delivery.

3. Raiyats who, in the provinces of Bengal, Bihar, Orissa, * * [1] hold lands at fixed rates of rent which have not been changed from the time of the permanent settlement, are entitled to receive pattas at those rates.

Raiyats holding land at fixed rates to receive patta.

4. Whenever, in any suit under this Act, it shall be proved that the rent at which land is held by a raiyat in the said provinces has not been changed for a period of twenty years before the commencement of the suit, it shall be presumed that the land has been held at that rent from the time of the

If rent of land be not changed for twenty years.

1899 (8 of 1899), section 3, printed in Vol. I, p. 294.

Act 10 of 1859 appears to be in force now only in the Darjeeling and ~~Manbhum~~ Districts, while such portions of the Act as are not inconsistent with the portions of the Bengal Tenancy Act, 1885 (8 of 1885) which have been extended to the Orissa Division are also in force in that Division.

(Amended in the Bengal and Santhal Parganas Districts.)

AMENDING ACT.—S. 21 of the Bengal Rent Act, 1882 (Ben. Act 6 of 1882), *post*, p. 230, declares that that Act is to be read with, and taken as part of, Act 10 of 1859.

APPEALS.—As to the appointment of officers to hear appeals under Act 10 of 1859, see the Bengal Rent (Appeals) Act, 1867 (Ben. Act 4 of 1867), *post*, p. 236.

REGISTERS.—For a list of registers prescribed by executive authority for use under this Act, and headings of such registers, see the Register and Return Manual, 1902, pages 28, 29.

INSPECTION.—As to the inspection of work connected with the execution of decrees under this Act, see the Inspection Manual, 1902, page 20.

[1] The words "and Benares," which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

permanent settlement, unless the contrary be shown, or unless it be proved that such rent was fixed at some later period.

Raiyats having right of occupancy, but not holding at fixed rates, to receive pattas.

5. Raiyats having rights of occupancy, but not holding at fixed rates as described in the two preceding sections, are entitled to receive pattas at fair and equitable rates.

In case of dispute, the rate previously paid by the raiyat shall be deemed to be fair and equitable, unless the contrary be shown in a suit by either party under the provisions of this Act.

Right of occupancy of raiyat cultivating land for twelve years.

6. Every raiyat who has cultivated or held land for a period of twelve years has a right of occupancy in the land so cultivated or held by him, whether it be held under patta or not, so long as he pays the rent payable on account of the same; but this rule does not apply to khamar, nijjot or sir land belonging to the proprietor of the state or tenure and let by him on lease for a term or year by year, nor (as respects the actual cultivator) to lands sublet for a term or year by year by a raiyat having a right of occupancy.

The holding of the father or other person from whom a raiyat inherits shall be deemed to be the holding of the raiyat within the meaning of this section.

Saving of terms of written contracts.

7. Nothing contained in the last preceding section shall be held to affect the terms of any written contract for the cultivation of land entered into between a landholder and a raiyat when it contains any express stipulation contrary thereto.

Pattas to raiyats not having rights of occupancy.

8. Raiyats not having rights of occupancy are entitled to pattas only at such rates as may be agreed on between and the persons to whom the rent is payable.

granting patta entitled to counterpart-engagement.

9. Every person who grants a patta is led to receive from the person to whom the patta is granted a kabuliyat or counterpart-engagement in conformity with the terms of the patta.

The tender to any raiyat of a patta such the raiyat is entitled to receive shall be held to entitle the person to whom rent is payable to receive a kabuliyat from such raiyat.

In cases of rent as receipt

10. Every under-tenant or raiyat from any sum is exacted in excess of the rent specified in his patta, or payable under the provisions of this Act, whether as abwab or under any other pretext, every under-tenant, raiyat or cultivator from whom a receipt is withheld any sum of money paid by person receiving such rent shall be entitled to recover from or paid. damages not exceeding double the amount so

of 1859.]

THE BENGAL RENT ACT, 1859.

(Secs. 11-18.)

Receipts for rent shall specify the year or years on account of which the rent is acknowledged to have been paid ; and any refusal to make such specification shall be held to be a withholding of a receipt.

Form of receipt.

11. The power heretofore vested in zamindars and other landholders of compelling the attendance of their tenants for the adjustment of their rents or for any other purpose is withdrawn, and all such persons are prohibited from adopting any means of compulsion for enforcing payment of the rents due to them other than are authorized by the provisions of this Act.

Landholder not to compel attendance of tenant for adjustment of rent, etc. Payment of rent how enforced.

12. If payment of rent, whether the same be legally due or not, is extorted from any under-tenant or raiyat by illegal confinement or other duress, such under-tenant or raiyat shall be entitled to recover such damages, not exceeding in any case the sum of two hundred rupees, as may be deemed a reasonable compensation for the injury done him by such extortion.

Damages for extortion by duress.

An award of compensation under this section shall not bar or affect any penalty or punishment to which the person practising such extortion may be subject by law.

[1] 13. No under-tenant or raiyat who holds or cultivates land without a written engagement, or under a written engagement not specifying the period of such engagement, or whose engagement has expired, or has become cancelled in consequence of the sale for arrears of rent or revenue of the tenure or estate in which the land held or cultivated by him is situate, and has not been renewed, shall be liable to pay any higher rent for such land than the rent payable for the previous year, unless a written notice shall have been served on such under-tenant or raiyat, in or before the month of Chaitra[2] specifying the rent to which he will be subject for the ensuing year, and the ground on which an enhancement of rent is claimed.

Enhancement of rent of raiyat holding without or after expiry, etc., of written engagement.

Such notice shall be served by order of the Collector on the application * * * [3] of the person to whom the rent is payable, and shall, if practicable, be served personally on the under-tenant or raiyat.

If for any reason the notice cannot be served personally upon the under-tenant or raiyat, it shall be affixed at his usual place of residence, or, if he have no such place of residence in the district in which the land is situate, the

[1] The provisions of s. 13 are not to affect settlement proceedings under the Bengal Land-revenue Settlement Regulation, 1822 (Ben. Reg. 7 of 1822), or under any other law for the time being in force for the regulation of settlements of land-revenue—see the Bengal Rent Settlement Act, 1879 (Ben. Act 8 of 1879), s. 4, *post*, p. 238.

[2] The month of Chaitra corresponds with the last part of March and the first part of April.

[3] The words "which may be on plain paper", which were repealed by the Court-fees Act, 1870 (7 of 1870)—printed in General Acts, 1869-76, Vol. 1898, p. 129, are omitted.

(Secs. 14-17.)

mode of service of such notice shall be by affixing it at the mal-encherry of such land or other conspicuous place thereon, or at the village chauri or chaupal, or at some other conspicuous place in the village in which the land is situate.

Mode of con-
testing en-
hancement of
rent.

[1] 14. Any under-tenant or raiyat on whom such notice as aforesaid has been served may contest his liability to pay the enhanced rent demanded of him, either by complaint of excessive demand of rent as hereinafter provided, or in answer to any suit preferred against him for recovery of arrears of the enhanced rent.

Dependent
talukdar, etc.,
holding at
fixed rent
without
change since
permanent
settlement
not liable to
enhancement.

15. No dependent talukdar or other person possessing a permanent trans-ferable interest in land, intermediate between the proprietor of an estate and the raiyats, who, in the provinces of Bengal, Bihar, Orissa * * * [2], holds his taluk or tenure (otherwise than under a terminable lease) at a fixed rent which has not been changed from the time of the permanent settlement, shall be liable to any enhancement of such rent, anything in section 51, Regulation 8, 1793, [3] or in any other law to the contrary notwithstanding.

Rent of
talukdar, etc.,
not changed
for twenty
years to be
prima facie
evidence of
occupancy at
that rent since
permanent
settlement.

16. Whenever, in any suit under this Act, it shall be proved that the rent at which a taluk or other tenure is held in the said provinces has not been changed for a period of twenty years before the commencement of the suit, it shall be presumed that the rent has been held at that rent from the time of the permanent settlement, unless the contrary be shown, or it be proved that such rent was fixed at some later period.

Rent of raiyat
having right
of occupancy
not to be en-
hanced
unless—

[1] 17. No raiyat having a right of occupancy shall be liable to an enhance-ment of the rent previously paid by him except on some one of the following grounds, namely :—

rate paid
by him is
below that
prevailing
in adjacent
places :
value of
land, etc.,
has increased
independently
of raiyat :

that the rate of rent paid by such raiyat is below the prevailing rate pay-able by the same class of raiyats for land of a similar description and with similar advantages in the places adjacent ;
that the value of the produce or the productive powers of the land have been increased otherwise than by the agency or at the expense of the raiyat ;

[1] The provisions of ss. 14 and 17 are not to affect settlement proceedings under the Bengal Land-revenue Settlement Regulation, 1822 (Ben. Reg. 7 of 1822), or under any other law for the time being in force for the regulation of settlements of land-revenue—see the Bengal Land Settlement Act, 1879 (Ben. Act 8 of 1879), s. 4, *post*, p. 228.

[2] The words "and Benares", which were repeated by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

[3] *See*, under the head "Land-revenue."

of 1859.]

LANDLORD AND TENANT.
THE BENGAL REACT, 1859.

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(Secs. 18-21.)

that the quantity of land held by the raiyat has been proved by measurement to be greater than the quantity for which rent has been previously paid by him.

quantity of land held by raiyat is

has rent for. When raiyat may claim abatement of rent.

18. Every raiyat having a right of occupancy shall be entitled to claim an abatement of the rent previously paid by him, if the area of the land has been diminished by diluvion or otherwise, or if the value of the produce or the productive powers of the land have been decreased by any cause beyond the power of the raiyat, or if the quantity of land held by the raiyat has been proved by measurement to be less than the quantity for which rent has been previously paid by him.

19. Any raiyat who desires to relinquish the land held or cultivated by him shall be at liberty to do so provided he gives notice of his intention in writing to the person entitled to the rent of the land, or his authorized agent in or before the month of Chaitra [1] of the year preceding that in which the relinquishment is to have effect.

Relinquishment of land by raiyat after notice.

If he fail to give such notice, and the land is not let to any other person, he shall continue liable for the rent of the land.

If the person entitled to the rent of the land, or his agent refuse to receive any such notice and to sign a receipt for the same, the raiyat may make an application [2] * * * to the Collector, who shall thereupon cause the notice to be served on such person or his agent in the manner provided in section 13.

20. Any instalment of rent which is not paid on or before the day when the same is payable according to the patta or engagement, or, if there be no written specification of the time of payment, at or before the time when such instalment is payable according to established usage, shall be held to be an arrear of rent under this Act, and, unless otherwise provided by written agreement, shall be liable to interest at twelve *per centum per annum*.

What to be deemed arrear of rent.

21. When an arrear of rent remains due from any raiyat at the end of the Bengal year,[3] or at the end of the month of Jeth[4] of the Fasli or Wilaiyati year, as the case may be, such raiyat shall be liable to be ejected from the land in respect of which the arrear is due :

Liability of raiyat to be ejected for arrear due.

[1] The month of Chaitra April.

do with the last part of March and the first part of

[2] The words "on plain paper" (7 of 1870 - printed in General Acts

s. 19, which were repealed by the Courts Fees Act, 1870 (76, Ed. 1898, p. 124), are omitted.

[3] i.e., the month of Chaitra part of April.

ch corresponds with the last part of March and the first

[4] The month of Jeth corresponds

with the last part of May and the first part of June.

Envisio.

Provided that no raiyat having a right of occupancy or holding under a patta the term of which has not expired shall be ejected otherwise than in execution of a decree or order under the provisions of this Act.

**Liability of
farmer to have
lease cancelled
for arrears
adjudged
due.**

22. When an arrear of rent shall be adjudged to be due from any farmer or other leaseholder not having a permanent or transferable interest in the land, the lease of such leaseholder shall be liable to be cancelled and the leaseholder to be ejected :

Envisio.

Provided that no such lease shall be cancelled nor the leaseholder ejected otherwise than in execution of a decree or order under the provisions of this Act.

**Cognizance
of suits under**

23. (1) All suits for the delivery of pattas or kabuliyats or for the determination of the rates of rent at which such pattas or kabuliyats are to be delivered [1] ;

(2) all suits for damages on account of the illegal exaction of rent or of any unauthorized cess or impost, or on account of the refusal of receipts for rent paid, or on account of the extortion of rent by confinement or other duress ;

(3) all complaints of excessive demand of rent, and all claims to abatement of rent ;

(4) all suits for arrears of rent due on account of land either khiraji or lakhiraj, or on account of any rights of pasturage, forest-rights, fisheries or the like ;

(5) all suits to eject any raiyat or to cancel any lease on account of the non-payment of arrears of rent, or on account of a breach of the conditions of any contract by which a raiyat may be liable to ejectment or a lease may be liable to be cancelled ;

(6) all suits to recover the occupancy or possession of any land, farm or tenure, from which a raiyat, farmer or tenant has been illegally ejected by the person entitled to receive rent for the same ;

(7) all suits arising out of the exercise of the power of distraint conferred on zamindars and others by sections 112 and 114 of this Act, or out of any acts done under colour of the exercise of the said power as hereinafter particularly provided,

shall be cognizable by the Collectors of land-revenue and shall be instituted and tried under the provisions of this Act and, except in the way of appeal as

[1] A suit may be instituted under section 23 (1) against a purchaser of an under-tenure sold under the Bengal Rent Recovery (Under-tenures) Act, 1885—see s. 17 of that Act, *post* p 235.

of 1859.]

THE BENGAL RENT ACT, 1859.

(Secs. 24-27.)

provided in this Act, shall not be cognizable in any other Court or by any other officer, or in any other manner.

24. Suits by zamindars and others in receipt of the rent of land, against any agents employed by them in the management of land or collection of rents, or the sureties of such agents, for money received or accounts kept by such agents, in the course of such employment, or for papers in their possession, shall be cognizable by the Collectors, and shall be instituted and tried under the provisions of this Act, and shall not be cognizable in any other Court except in the way of appeal as provided in this Act.

Suits by
against
agents for
money or
accounts.

25. If any zamindar or other person in receipt of the rent of land requires assistance to eject any cultivator not having a right of occupancy, or to eject any farmer or other tenant holding only for a limited period after the determination of his lease or tenancy, or any agent after the determination of his agency, or to enforce any attachment or ejectment expressly authorized by any Regulation or Act, he shall make application to the Collector, and the Collector shall proceed thereupon to inquire into the case and pass orders in the manner provided for suits under this Act :

Ejectment of
cultivators,
farmers, etc.
by zamindars.

Provided that no such application for the ejectment of a farmer on the determination of a lease shall be received, if the lease be of the kind denominated thika, zaripeshgi, or the like, in which an advance has been made by the leaseholder, and the proprietor's right of re-entry at the end of the term is contingent on the repayment of such advance either in money or by the usufruct of the land. In all such cases the parties must proceed by suit in the civil Court.

Proviso.

26. [Measurement of lands]. Rep. by the Bengal Rent Act, 1862 (Ben. Act 6 of 1862). See now sections 9 to 11 of that Act, post, pp. 225 to 227.

27. All dependent talukdars and other persons possessing a permanent transferable interest in land intermediate between the zamindar and the cultivator are required to register in the sarishta of the zamindar or superior tenant to whom the rents of their taluks or tenures are payable, all transfers of such taluk or tenures or portions of them, by sale, gift or otherwise, as well as all successions thereto, and divisions among heirs in cases of inheritances.

Registry of
transfers of
taluks, etc.

And every zamindar or superior tenant is required to admit to registry and otherwise give effect to all such transfers, when made in good faith, and all such successions and divisions.

If any zamindar or superior tenant refuse to admit to registry or otherwise give effect to any such transfer or succession, the transferee or successor may make application to the Collector, and the Collector shall thereupon proceed to

inquire into the case in the manner provided for suits under this Act, and, if no sufficient grounds are shown for the refusal, shall pass an order enjoining the zamindar or superior tenant to admit to registry and otherwise give effect to such transfer or succession :

Provided.

Provided that no zamindar or superior tenant shall be required to admit to registry or give effect to any division or distribution of the rent payable on account of any such tenure, nor shall any such division or distribution of rent be valid and binding without the consent in writing of the zamindar or superior tenant.

Applications to dispose of land from revenue.

28. So much of section 10, Regulation 19, 1793, [1] * * * [2] and section 24, Regulation 12, 1805, [3] as authorizes and requires proprietor and farmers of estates and dependent taluks, in cases in which grants for holding land exempt from the payment of revenue have been made subsequent to the dates specified in the said sections, of their own authority to collect the rents of such land and to dispossess the grantees of the proprietary right in the land and to re-annex it to the estate or taluk in which it may be situate, is repealed ; and any proprietor or farmer who may desire to assess any such land or to dispossess any such grantee shall make application to the Collector, and such application shall be dealt with as a suit under the provisions of this Act.

Every such suit shall be instituted within the period of twelve years from the time when the title of the person claiming the right to assess the land or dispossess the grantee, or of some person claiming under him, first accrued.

* * * * [4]

Suits by or against sarbarahkars or tahsildars of estates held

29. All suits which under the provisions of this Act may be brought by or against zamindars or other persons in the receipt of the rent of land may be brought by or against sarbarahkars or tahsildars of estates held under khas management, whether such estates are the property of Government or of individuals.

* * * * [5]

[1] The Bengal Revenue-free Lands (No Bâdshâhi Grants) Regulation, 1793. It is printed *post*, under the head "Land-revenue."

[2] The words and figures "section 10, Regulation 21, Regulation 8, 1805," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

[3] The Cuttack Land-revenue Regulation, 1805.

[4] The words "If such period has already elapsed at the date of the passing of this Act, such suit may be brought," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

[5] The remainder of s. 29, Regulation 12, 1805, is omitted.

41, 1793, section 6, Regulation 31, 1803, by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

It is printed *post*, under the head "Land-revenue," or will elapse within two years from the date of the passing of this Act, such suit may be brought," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

of 1859.]

THE BENGAL RENT ACT, 1859.

(Secs. 30-34.)

30. Except as otherwise provided, all suits instituted under this Act shall be commenced within the period of one year from the date of the accruing of the cause of action. Commencement of suits generally;

31. Suits for the delivery of pattas or kabuliyats, and for the determination of the rates of rent at which such pattas or kabuliyats are to be delivered, may be instituted at any time during the tenancy. suits for grant of pattas, &c.

32. Suits for the recovery of arrears of rent shall be instituted within three years from the last day of the Bengal year, [1] or from the last day of the month of Jeth [2] of the Fasli or Wilaiyati year, in which the arrear claimed shall have become due. suits for arrears of rent.

* * * * *

Provided that, if the suit be for the recovery of rent at a higher rate than was payable in the previous year; such rent having been enhanced after issue of notice under section 13, and the enhancement not having been confirmed by any competent Court, the suit shall be instituted within three months from the end of the Bengal year, [1] or of the month of Jeth [2] of the Fasli or Wilaiyati year, on account of which such enhanced rent is claimed. Provided.

33. Suits for the recovery of money in the hands of an agent or for the delivery of accounts or papers by an agent may be brought at any time during the agency or within one year after the determination of the agency of such agent Suits against agents for money, papers or accounts.

* * * * *

Provided that, of the person having the right to sue shall by means of fraud have been kept from the knowledge of the receipt of any such money by the agent, or if any fraudulent account shall have been rendered by the agent, the suit may be brought within one year from the time when the fraud shall have been first known to such person; but no such suit shall in any case * * * * * [5] be brought at any time exceeding three years from the termination of the agency. Provided.

34. Suits under this Act shall be instituted by presenting to the Collector Mode of insti-

[1] The Bengal year ends with the month of Chaitra, which corresponds with the last part of March and the first part of April.

[2] The month of Jeth corresponds with the last part of May and the first part of June.

[3] The words "For arrears of rent due at the passing of this Act, suit shall be brought within three years after the passing of this Act, or within the period now allowed for the institution of such suits in the Civil Court, whichever may first expire," which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

[4] The words "or, in the case of claims now existing, within one year after the passing of this Act, or within the period now allowed for the institution of such suits in the Civil Court, whichever may first expire," which were repealed by the same Act, are omitted.

[5] The words "(except the case of claims now existing as aforesaid)," which were repealed by the same Act, are omitted.

suing suits. a plaintiff or statement of claim which shall contain the name, description and
 Form of plaint description and place of abode of the
 of claim. defendant, so far as they can be ascertained, the substance of the claim and
the date of the cause of action.

Statement by 35. The statement of claim shall presented by the plaintiff or by an
 whom pre- authorized agent of the plaintiff who s personal knowledge of the facts of
 sented. the case, or by an agent who shall be ompanied by a person who has such
knowledge.

Verification 36. The statement of claim shall subscribed and verified at the foot
 of statement. by the plaintiff or his agent in the manner following or to the like effect:—
I, A. B., do declare that the above statement is true to the best of my
knowledge and belief.

Punishment If the statement shall contain any averment which the person making the
 for false verification shall know or believe to be false, or shall not know or believe
 verification. to be true, such person shall be subject to punishment according to the law [1]
for the time being in force for the punishment of giving or fabricating false
evidence.

37. [*Statement of claim to be written on stamped paper.*] Rep. by Act 36 of
1860.

Documentary 38. If the plaintiff rely in support of his claim on any document in his
 evidence to be possession, he shall deliver the same to the Collector at the time of presenting
 produced by his statement of claim.
 plaintiff.

Unless such document be delivered in, or its non-production be sufficiently
excused, or unless the Collector see fit to extend the time for producing the
same, it shall not afterwards be admitted.

Production of 39. If the plaintiff require the production of any document in the posses-
 document re- sion or power of the defendant, he may at the time of presenting his statement
 quired by of claim deliver to the Collector a description of the document in order that
 plaintiff from the defendant may be required to produce the same.
 defendant.

40. [*Form of plaint in suits for arrears of rent.*] Rep. by the Bengal
Rent Act, 1862 (Ben. Act 6 of 1862).

Plaint in suit 41. If the suit be for the ejectment of a raiyat, farmer or tenant from any
 for ejectment land, farm or tenure, or for the recovery of the occupancy or possession of any
 of raiyat, &c., land, farm or tenure, the statement shall describe (as circumstances may
 or for recovery require) the extent, situation and designation of the same; and, if necessary
 of occupancy of land, &c.
 or possession
 of land, &c.

[1] See now the Indian Penal Code (Act 45 of 1860), Ch. XI, in General Acts, 1834-67, Ed.
1898, p. 291.

of 1859.]

THE BENGAL RENT ACT, 1859.

(*Secs. 42-47.*)

for the identification of the land, shall set forth the boundaries of such land.

42. If the statement of claim do not contain the several particulars hereinbefore required to be specified therein or be not subscribed and verified as herein before required, the Collector may return the statement to the plaintiff, or at his discretion allow it to be amended.

Statement may be returned or allowed to be amended.

43. If the statement of claim be in proper form, the Collector, except as otherwise hereinafter specially provided, shall direct the issue of a summons to the defendant, and if the plaintiff require the personal attendance of the defendant, and satisfy the Collector that such personal attendance is necessary, or the Collector of his own accord require such personal attendance, the summons shall contain an order for the defendant to appear personally on a day to be specified in the summons; otherwise the summons shall order the defendant to appear personally or by an agent duly authorized on his behalf, who has personal knowledge of the subject, or who shall be accompanied by a person who has such personal knowledge.

Issue of summons; personal attendance of defendant may be required.

44. The day to be specified in the summons shall be fixed with reference to the state of the file and the distance that the defendant may be or be supposed to be at the time from the place where the Court is held, and the summons shall order the defendant to produce any document which he may have in his possession, of which the plaintiff demands inspection, or upon which the defendant may intend to rely in support of his defence.

Day to be specified in summons how fixed. Defendant to produce necessary documents, and bring witnesses willing to attend without process.

It shall also enjoin him to bring with him his witnesses if they are willing to attend without issue of process, and shall be in the form (A) contained in the schedule to this Act or to the like effect.

45. The summons shall be served by delivering a copy of the summons to the defendant personally when practicable, or, if the summons cannot be served on the defendant personally, by affixing a copy of it to some conspicuous part of his usual place of abode, and also affixing a copy of the same in the Collector's office.

Summons how served.

46. If the summons be served personally, the nazir shall endorse on the summons the fact of such service. If personal service be not effected, the nazir shall endorse on the summons the reason of not serving it personally, and how it has been served.

Endorsement by nazir on summons.

47. If the usual place of abode of the defendant be in another district the summons, together with the cost of the service thereof, shall be sent by the public post to the Collector of such district, who shall issue the summons,

Execution of process in other district.

and return the same after service, with the prescribed endorsement, to the officer by whom it was transmitted to him.

Cost of serving summons or warrant to be deposited.

48. The amount of the cost of serving the summons, or, if a warrant be issued as provided in the next succeeding section, of serving the warrant, shall in all cases be deposited in Court upon the same day or the day next following that on which the plaint or statement of claim is presented to the Collector.

If the said amount be not so deposited (except in cases in which the Collector may allow the issue of summons free of cost under the discretion reserved to him in section 146), the case shall not be brought on the file of suits; but in such case the plaintiff may present another plaint at any time within the period allowed by the rules for the limitation of actions.

Warrant of arrest in what cases issued.

49. If in any suit against an under-tenant or raiyat for the recovery of an arrear of rent, or against an agent for the recovery of any money, papers or accounts, the plaintiff desires a warrant of arrest to be issued against the defendant, such defendant being resident within the district in which the suit is instituted, he shall present with his statement of claim an application for the issue of such warrant.

When such application is presented, the Collector shall examine the plaintiff or his agent on his oath or affirmation or otherwise according to the law for the time being in force in relation to the examination of witnesses, and inspect the documents adduced by him in support of his claim, and if there be *prima facie* grounds for believing the claim to be well-founded, and that if, a summons be issued, the defendant will abscond instead of appearing to answer the claim, the Collector may issue a warrant for the arrest of the defendant.

The Collector shall fix a reasonable time for the return of the warrant, which shall be in the form (B) contained in the Schedule to this Act or to the like effect, and the officer entrusted with the service of the warrant shall at the time of arresting the defendant deliver to him a notice addressed to the defendant (which shall be in the form (C) in the Schedule or to the like effect) containing the particulars of the claim, and requiring the defendant, if he contest the claim, to bring with him any document upon which he may intend to rely in support of his defence.

But no such warrant shall be issued in a suit for arrears of rent due in respect of a dependent taluk or other transferable tenure, which, as hereinafter provided, is liable to sale in execution of any decree which may be passed in the case.

Procedure

50. If a defendant be arrested under the warrant of arrest, he shall be

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brought with all convenient speed before the Collector, and the Collector shall commit him to custody unless he deposit in Court such sum as may be specified in the notice.

after arrest of defendant

51. When a defendant is brought before the Collector under warrant, the Collector shall with all convenient speed proceed to try the case in the manner hereinafter provided; and, if the suit cannot be at once adjudicated, the Collector may, if he think fit, require the defendant to give security for his appearance whenever the same may be required at any time whilst the suit is depending or until execution of the final decree which may be passed thereon, and may commit the defendant to the civil jail, to be there detained until he shall furnish such security or deposit such sum as the Collector shall order.

Procedure on defendant being brought before Collector

The security-bond shall be in the form (D) contained in the Schedule to this Act or to the like effect.

Form of security-bond.

52. If the defendant cannot be arrested under the warrant, the Collector, on the application of the plaintiff, shall either postpone the case for such period as he may think proper in order that the plaintiff may apply within the said period for another warrant to be issued for the arrest of the defendant, or shall forthwith issue a proclamation to be affixed in his own office and at the residence of the defendant fixing a day for the hearing of the case, which shall not be less than ten days from the date of the publication of the notice at the residence of the defendant.

Procedure if warrant cannot be served.

If the defendant shall appear in pursuance of the proclamation, he shall be dealt with as provided in the last preceding section.

53. If it shall appear to the Collector that the arrest of the defendant was applied for without reasonable cause, the Collector may in his decree award to the defendant such sum not exceeding one hundred rupees as he may deem a reasonable compensation for any injury or loss which the defendant may have sustained by reason of such arrest or of his detention in jail during the pendency of the suit.

Compensation for arrest applied for without reasonable cause.

54. If on the day fixed by the summons or proclamation for the appearance of the defendant, or on any subsequent day to which the hearing of the case may be adjourned prior to the recording of an issue for trial as hereinafter provided, neither of the parties appear in person or by an agent, the case shall be struck off with liberty to the plaintiff to bring a fresh suit unless precluded by the rules for the limitation of actions.

Consequence of neither party appearing on day of trial.

55. If on any such day the defendant only appear, the Collector shall pass judgment against the plaintiff by default, unless the defendant admit the cause

When Collector to pass judgment

by default;
and when to
decree upon
admission.
Proviso.

of action, in which case the Collector shall proceed to give judgment for the plaintiff upon such admission without costs, provided that such judgment, if there be more than one defendant, shall be only against the defendant who makes the admission.

If plaintiff
only appear,
Collector may
proceed *ex
parte*.

56. If on any such day the plaintiff only appear, the Collector, upon proof that the summons or proclamation has been duly served according to the provisions of this Act, shall proceed to examine the plaintiff or his agents and after considering the allegations of the plaintiff, and any documentary or oral evidence adduced by him, may either dismiss the case or postpone the hearing of it to a future day for the attendance of any witness the plaintiff may wish to call, or may pass judgment *ex parte* against the defendant.

Defendant
appearing at
postponed
hearing may
be heard in
answer.

57. If the defendant shall appear on any subsequent day to which the hearing of the suit may be postponed under the last preceding section, the Collector may upon such conditions, if any, as to costs or otherwise as he may think proper, allow the defendant to be heard in answer to the suit as if he had appeared on the day fixed for his attendance.

Revival, re-
versal and al-
teration of de-
crees *ex parte*
or by default.

[1] 58. No appeal shall lie from a judgment passed *ex parte* against a defendant who has not appeared, or from a judgment against a plaintiff by default for non-appearance.

But in all such cases, if the party against whom judgment has been given shall appear, either in person or by agent, if a plaintiff within fifteen days from the date of the Collector's order, and if a defendant within fifteen days after any process for enforcing the judgment has been executed or at any earlier period, and shall show good and sufficient cause for his previous non-appearance and shall satisfy the Collector that there has been a failure of justice, the Collector may, upon such terms and conditions as to costs or otherwise as he may think proper, revive the suit and alter or rescind the decree, according to the justice of the case.

But no decree shall be reversed or altered without previously summoning the adverse party to appear and be heard in support of it.

On appear-
ance, parties
to be examined
by Collector,
and may
cross-examine
each other.

59. When both parties appear in person or by agent on the day named in the summons, or upon any subsequent day to which the hearing of the case may be adjourned for sufficient reason to be recorded by the Collector, the Collector shall proceed to examine such of the parties as may be present, and either party or his agent may cross-examine the other.

[1] An order of the Collector under s. 58, for setting aside a judgment, is final—see the Bengal Rent Act, 1862 (Ben. Act 6 of 1862), s. 13, *post*, p. 227.

of 1859.]

THE BENGAL RENT ACT, 1859.

(Seps. 60-65.)

If either of the parties be not bound to attend personally, any agent by whom he shall appear, or any person who shall accompany such agent, shall be examined and cross-examined in like manner as the party himself would have been if he had attended personally.

At the time of examination the defendant, if he think fit, may file a written statement of his defence.

60. The examination of the parties or their agents or such other persons as aforesaid shall be upon oath or affirmation or otherwise according to the law for the time being in force relative to the examination of witnesses.

Examination of parties, etc.

The substance of the examination shall be reduced to writing in the vernacular language of the Collector and filed with the record.

61. If either of the parties shall bring forward a witness on such day, the Collector may take the evidence of such witness.

Witnesses to be examined.

62. If the defendant rely on any document in support of his defence, he shall deliver the same into Court at the first hearing of the suit; and unless such document be so delivered in, or its non-production be sufficiently excused, or unless the Collector see fit to extend the time for producing the same, it shall not afterwards be admitted.

Documentary evidence to be produced by defendant.

63. If after the examination required by section 59 and also the examination of any witness who may attend to give evidence on behalf of either of the parties, and after a consideration of the documentary evidence adduced a decree can be properly made without further evidence, the Collector shall make his decree accordingly.

After examination, Collector may make decree if no further evidence required.

64. If on such examination as aforesaid, the agent of either party be unable to answer any material question relating to the case which the Collector is of opinion that the party whom he represents ought to answer, and is likely to be able to answer if interrogated in person, the Collector may postpone the hearing of the case to a future day, and direct that the party whose agent may have been unable to answer as aforesaid shall attend in person on such day; and, if the party so directed to attend shall fail to appear in person on the day appointed, the Collector may pass judgment as in case of default or make such other order as he may deem proper in the circumstances of the case.

Consequence of inability of agent to answer.

65. If on such examination as aforesaid it appear that the parties are at issue on any question upon which it is necessary to hear further evidence, the Collector shall declare and record such issue, and shall fix a convenient day for the examination of witnesses and the trial of the suit; and the trial shall take

If necessary, Collector to record issue, and to fix day for hearing further evidence.

place on that day unless there be sufficient reason for adjourning it, which reason shall be recorded by the Collector.

Parties to
produce
witnesses on
day of trial ;
or Collector,
on application,
to summon
witness.

66. The parties shall bring forward their witnesses on the day of trial, and, if either party require assistance to procure the attendance of a witness on such day either to give evidence or to produce a document, he shall apply to the Collector in sufficient time before the day fixed for the trial, to enable the witness to be summoned to attend on that day ; and the Collector shall issue a summons requiring such witness to attend.

Rules
regarding
attendance,
examination,
etc., of
witnesses.

[1] 67. The provisions of the Regulations and Acts and all other rules for the time being in force relating to the evidence of witnesses, for procuring the attendance of witness and the production of documents, and for the examination, remuneration and punishment of witnesses, whether parties to the case or not, in cases before the Civil Courts of the Presidency of Bengal, shall, except so far as the same may be inconsistent with the provisions of this Act, apply to and be of equal force and effect in suit under this Act.

Consequence
of parties not
appearing on
day fixed for
trial of issue.

68. If on the day fixed for the trial any issue neither of the parties appear, the case shall be struck off under the conditions provided in section 54.

If on any such day one only of the parties appear, the issue may be tried and determined in the absence of the other party upon such proof as may be then before the Court.

Suits by and
against naibs,
gumashtas,
etc.

69. When suits under this Act are instituted or defended by naibs, gumashtas or other persons employed in the collection of rent or management of land in the name and on the behalf of the landholders by whom they are so employed, all the provisions of this Act by which the personal appearance or attendance of parties to a suit is or may be required shall be applicable to such naibs, gumashtas or other persons ; and anything which by this Act is required or permitted to be done by a party in person may be done by any such person as aforesaid.

Processes served on any such person shall be as effectual for all purposes in relation to the suit as if the same had been served on the landholder in person, and all the provisions of this Act relative to the service of processes on a party to the suit shall be applicable to the service of processes on such person.

* Personal
attendance
when not
required.

70. A plaintiff or defendant shall not be required to attend in person if of the female sex and of a rank or class which according to the custom and manners of the country would render it improper for her to appear in public.

[1] As to the application of s. 67 to proceedings of the Collector under s. 10 of the Bengal Rent Act, 1862 (Ben. Act 6 of 1862), see the latter enactment, *post*, p. 226.

of 1859.]

THE BENGAL RENT ACT, 1859:

(Secs. 71-76.)

71. Any party to a suit may employ an authorized agent or mukhtár to conduct the case on his behalf, but the appointment of such agent or mukhtár shall not excuse the personal attendance of the plaintiff or defendant in cases where his personal attendance is required by the summons or any order of the Court * * * * * [1].

Employment of authorized agent or mukhtars.

72. The Collector may in any case grant time to the plaintiff or defendant to proceed in the prosecution or defence of a suit, and may also from time to time, in order to the production of further proof or for other sufficient reason to be recorded by the Collector, adjourn the hearing or further hearing of any case in such manner as to him may seem fit.

Collector may grant time or adjourn hearing.

73. The Collector may at any stage of a case cause a local inquiry and report respecting the matter in dispute to be made by any officer subordinate to him, or by any other officer of Government with the consent of the authority to whom such officer is subordinate, or may himself proceed to the spot and make such local inquiry in person.

Collector may cause local inquiry to be made.

The provisions of the law for the time being in force relative to local inquiries by amins or commissioners under orders of the Civil Courts shall apply to any local inquiry made by any officer under this section, and so far as they are applicable, to inquiries made by the Collector in person.

In the latter case the Collector, after completing the inquiry, shall record on the proceedings such observations as appear to him appropriate, and the observations so recorded shall be received as evidence in the suit.

74. [Payment of money into Court in satisfaction of demand.] Rep. by the Bengal Rent Act, 1832 (Ben. Act 6 of 1862).

75. No interest shall be allowed to a plaintiff on any sum paid by the defendant into Court from the date of such payment, whether such sum be in full of the plaintiff's claim or fall short thereof.

No interest on deposits.

76. If on the trial of a suit for the delivery of a patta instituted by a raiyat having a right of occupancy the parties do not agree as to the term for which the patta is to be granted, the Collector shall fix such term as under the circumstances of the case he may think just and proper :

Collector when to fix term for which patta is to be granted. Proviso.

Provided that the term shall not in any case be longer than ten years, and in estates not permanently settled shall not extend beyond the period for which the proprietor of the estate has engaged with Government :

Provided also that, if the defendant be a farmer or other person having

[1] The words "and no fee for any" : shall be charged as part of the costs of suit in any case under this Act," which were repealed by Pledgers, Mukhtars and Revenue Agents Act, 1865 (20 of 1865), are omitted.

only a temporary interest in the land, the term of the patta shall not extend beyond the period of the continuance of such interest.

For cultivators not having a right of occupancy, the term of patta shall be exclusively in the discretion of the person entitled to the rent of the land.

In suits for rent, third person claiming to be made party.

77. When, in any suit between a landholder and a raiyat or under-tenant under this Act, the right to receive the rent of the land or tenure cultivated or held by the raiyat or under-tenant is disputed, and such right is claimed by or on behalf of a third person on the ground that such third person or a person through whom he claims has actually and in good faith received and enjoyed such rent before and up to the time of the commencement of the suit, such third person shall be made a party to the suit, and the question of the actual receipt and enjoyment of the rent by such third person shall be inquired into and the suit shall be decided according to the result of such inquiry :

Proviso.

Provided always that the decision of the Collector shall not affect the right of either party, who may have a legal title to the rent of such land or tenure, to establish his title by suit in the Civil Court if instituted within one year from the date of the decision.

Suits for ejectment or cancelment of lease.

78. Any person desiring to eject a raiyat or to cancel a lease on account of non-payment of arrears of rent may sue for such ejectment or cancelment and for recovery of the arrear in the same action, or may adduce any unexecuted decree for arrears of rent as evidence of the existence of such arrear in a suit for such ejectment or cancelment.

In all cases of suits for the ejectment of a raiyat or the cancelment of a lease, the decree shall specify the amount of the arrear, and, if such amount together with interest and costs of suit be paid into Court within fifteen days from the date of the decree, execution shall be stayed.

79. [*Judgment how to be pronounced.*] *Rep. by the Bengal Rent Act, 1862 (Ben. Act 6 of 1862).*

If person required by decree refuse to grant patta, Collector may do so.

80. When a decree is given for the delivery of a patta, if the person required by the decree to grant such patta refuse or delay to grant the same, the Collector may grant a patta in conformity with the terms of the decree under his own hand and seal, and such patta shall be of the same force and effect as if granted by the person aforesaid.

Refusal to execute kabulyat as required by decree.

81. When a decree is given for the delivery of a kabulyat, if the person required by the decree to execute such kabulyat shall refuse to execute the same, the decree shall be evidence of the amount of rent claimable from such person, and a copy of the decree under the hand and seal of the Collector

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THE BENGAL RENT ACT, 1859.

(Secs. 82-87.)

shall be of the same force and effect as a kabuliyat executed by the said person.

82. If the decree be for the ejection of any raiyat from land occupied by him, or for the re-instatement of any raiyat in the occupancy of land from which he has been ejected, the decree shall be executed by giving the possession or occupancy of the land to the person entitled by the decree to such possession or occupancy.

Mode of executing decree for ejection or re-instatement of raiyat.

If any opposition is made to the execution of the order for giving such possession or occupancy by the party against whom the order is made, the Magistrate, on the application of the Collector, shall give effect to the same.

Punishment for obstructing execution.

83. If the decree be for the cancelment of any lease or the ejection of any farmer or other person (not being an actual cultivator), or for the re-instatement of any farmer or other such person in the possession of a farm or tenure from which he has been ejected, the decree shall be executed by proclaiming the substance of the decree to the cultivators or other occupants by beat of drum or in such other manner as may be customary, and affixing the same in some conspicuous place within or adjacent to the farm or tenure.

Execution of decree for cancelment of lease or ejection or re-instatement of farmer or tenant.

84. If the decree be for arrears of rent or for money, papers or accounts, and the defendant have been committed to jail or appear pursuant to the conditions of any security-bond given under section 51, the Collector may order that he be detained in or committed to the civil jail, unless he immediately pay into Court the amount of the decree with costs, or otherwise comply with the terms of the decree.

When judgment-debtor may be detained or imprisoned without issue of process of execution.

85. If the judgment-debtor have given security for his appearance and be not present when judgment is pronounced, and the surety shall fail to deliver him into custody when required so to do, process of execution may be taken out against the surety in the same manner as if a decree for the amount due by the debtor had been passed against the surety.

Liability of surety on failure to deliver judgment-debtor into custody.

If the decree be for the delivery of papers or accounts, and the defendant be not present when judgment is pronounced and the surety shall fail to deliver him into custody when required so to do, execution may be taken out against the surety for the sum due under the bond in the same manner as if a decree for that sum had been passed against the surety.

86. [Issue of process of execution.] Rep. by the Bengal Rent Act, 1862 (Ben. Act 6 of 1862)

87. Any moveable property required to be seized under an execution shall, if practicable, be described in a list to be furnished by the judgment-creditor,

Application for execution against

moveable
property.

but if the creditor is unable to furnish such list, he may apply for a general attachment of the debtor's effects to the amount of the judgment and costs.

In either case the property to be seized shall be pointed out to the officer entrusted with the execution of the process by the creditor or his agent.

Duration of
warrant.

88. Every warrant of execution shall bear date on the day on which it is signed by the Collector and shall continue in force for such period as the Collector may direct, not being more than sixty days calculated from such date.

Second and
successive
warrants.

89. Second and successive warrants of execution may be issued by order of the Collector on the application of the judgment-creditor, after the expiration of the period fixed for the continuance in force of a previous warrant.

After one
year execution
not to issue
without
notice.

90. Process of execution shall not be issued upon any judgment without previous notice to the party against whom execution is applied for, if, when application for the issue of the process is made, a period of more than one year shall have elapsed from the date of the judgment or from the date of the last previous application for execution.

Notice of
execution
against repre-
sentative.

91. Execution on a judgment shall not issue against the heir or other representative of a deceased party without notice to such heir or other representative to appear and be heard.

Execution
after three
years from
date of
judgment.

92. No process of execution of any description whatsoever shall be issued on a judgment under this Act after the lapse of three years from the date of such judgment, unless the judgment be for a sum exceeding five hundred rupees, in which case the period within which execution may be had shall be regulated by the general rules in force in respect to the period allowed for the execution of decrees of the Civil Courts.

Warrant
against
person.

93. If a warrant issue for taking in execution the body of any person, the officer charged with the execution of the warrant shall bring him with all convenient speed before the Collector.

If such person shall not then deposit in Court the full amount specified in the warrant or make such arrangement for the payment of the same as shall be satisfactory to the judgment-creditor, or satisfy the Collector that he has no present means of paying the debt, the Collector shall send him to the civil jail, there to remain for such time as shall be directed by a warrant addressed to the keeper of the jail, unless he shall in the meantime pay the full amount for the payment of which he is liable under the decree :

Limit of
imprisonment.

Provided that the time for which a debtor may be confined in execution of a decree under this Act shall not exceed three calendar months when the

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(Secs. 94-98.)

amount decreed exclusive of costs does not exceed fifty rupees, or six calendar months when such amount does not exceed five hundred rupees, or two years in any other case.

If the decree against any person arrested under a warrant be for the delivery of papers or accounts and the papers or accounts shall not be delivered by him when he is brought before the Collector, such person may be committed to the civil jail, there to remain for such time not exceeding six calendar months as the Collector shall direct, unless he shall in the meantime deliver the papers or accounts according to the terms of the decree.

If arrest be for non-delivery of accounts.

94. Any person once discharged from jail shall not be imprisoned a second time under the same judgment.

No second imprisonment under same judgment.

If the amount due under the decree do not exceed one hundred rupees, the Collector may declare such discharged person absolved from further liability under that decree.

In other cases the discharge shall not extinguish the liability of the discharged person under the decree, or exempt any property belonging to such person from attachment in execution of the same.

95. Any person applying for a warrant of arrest under section 49 or suing out process of execution against the body of any person, shall deposit in Court, at the time of issue of the warrant, diet-money for one month of thirty days at such rate as the Collector may direct, not exceeding two annas *per diem*, unless the Collector for any special reason direct that deposit be made at a higher rate, which shall not exceed four annas *per diem*.

Deposit of diet-money.

96. Payment of diet-money at the same rate shall be made previously to the commencement of each succeeding month of the imprisonment, in failure of which the party confined shall be discharged.

Payment of diet-money in advance during imprisonment. Diet-money to be costs in suit.

97. All diet-money spent in providing subsistence for any prisoner shall be added to the costs in the suit, and any diet-money not so spent shall be returned to the person who deposited the same.

98. In executing a writ of execution against the moveable property of a debtor liable under this Act, the officer charged with the execution of the writ shall prepare a list of the property pointed out by the judgment-creditor, and shall publish a proclamation specifying the day upon which the sale is intended to be held, together with a copy of the said list, at the intended place of sale and at the residence of the debtor.

List of property taken in execution and proclamation of sale.

A copy of the said proclamation and list shall be transmitted to the debtor and shall be affixed in his office.

Custody and
sale of
moveable
property
taken in
execution.

99. No sale of any moveable property taken in execution shall be made until after the end of ten days next following the day on which such property may have been so taken.

Until such sale the property shall be deposited in some fit place or it may remain in custody of some fit person approved by the officer executing the writ.

The provisions of sections 129 to 133, so far as the same are applicable, shall be applied to sales under this section.

Collector may
stay sale of
moveable

seized if third
party claim
interest
therein.

Collector to
adjudicate
such claims.

100. If before the day fixed for the sale a third party appear before the Collector and claim a right or interest in any of the moveable property taken in execution, the Collector shall examine such party or his agent on oath or affirmation or otherwise, according to the law for the time being in force relative to the examination of witnesses, and if he see sufficient reason for so doing may stay the sale of such property.

101. The Collector shall adjudicate upon such claim and make such order between the claimant and the plaintiff and defendant in the original suit as shall seem fit.

In trying such claim the Collector shall be guided by the rules contained in this Act so far as they may be applicable.

Claimant
failing to
establish right
liable to
compensate
judgment-
creditor.

102. If the claimant shall fail to establish his right to the property taken in execution, the Collector at the time of disposing of the case may award to the judgment-creditor against such claimant as part of the costs such sum as he may consider sufficient to cover any loss of interest or damage which the judgment-creditor may have sustained by reason of the postponement of the sale of the property.

No appeal
from order
under sections
101, 102.

103. No appeal shall lie from any order passed by the Collector under the two last preceding sections. But the party against whom the same may be given shall be at liberty to bring a suit in the Civil Court to establish his right at any time within one year from the date of the order :

Proviso.

Provided that, if the order be for the sale of the property, the suit shall not be for the recovery of the property, but shall be for damages against the judgment-creditor by whom the property was brought to sale.

Sale not
vitiated by
irregularity in
publishing or
conducting.

104. No irregularity in publishing or conducting a sale of moveable property under an execution shall vitiate such sale, but this rule shall not be held to deprive any person who may sustain damage by reason of such irregularity from recovering such damage by action in the Civil Court :

Proviso.

Provided such action be brought within one year from the date of sale.

of 1859.]

THE BENGAL RENT ACT, 1859.

(Secs. 105-108.)

105. If the decree be for an arrear of rent due in respect of an under-tenure, which by the title-deeds or the custom of the country is transferable by sale, the judgment-creditor may make application for the sale of the tenure and the tenure may thereupon be brought to sale in execution of the decree according to the rules [1] for the sale of under-tenures for the recovery of arrears of rent due in respect thereof contained in any law for the time being in force.

Sale of transferable tenures in execution of decrees for arrears of rent.

But no such application shall be received when a warrant of execution has been previously issued against the person or moveable property of the judgment-debtor so long as such warrant remains in force.

If after sale of an under-tenure any portion of the amount decreed remains due, process may be applied for against any other property, moveable or immoveable, belonging to the debtor, and any such immoveable property may be brought to sale in the manner provided in section 110 of this Act.

106. If before the day fixed for the sale of any such under-tenure as aforesaid in execution of a decree for arrears of rent due in respect of such under-tenure, a third party appear before the Collector and allege that such third party and not the person against whom the decree has been obtained is the proprietor of such under-tenure, and was in lawful possession of the same at the time when such decree was obtained, the Collector shall examine such party in the manner provided in section 100 for the examination of third parties, and if he sees sufficient reason for so doing, and such party shall deposit in Court the amount of the decree or give sufficient security for the same, the Collector shall stay the sale and proceed to inquire into and adjudicate upon the claim:

If third party claim to be lawful possessor of tenure, Collector to stay sale and to inquire and adjudicate.

Provided that no transfer of an under-tenure which by the provisions of this Act or any other law for the time being in force is required to be registered in the sharishta of the zamindar or superior tenant shall be recognised unless it have been so registered, or unless sufficient cause for non-registration be shown to the satisfaction of the Collector.

Proviso.

107. In trying such claim the Collector shall be guided by the rules contained in this Act, so far as the same may be applicable, and the judgment passed by the Collector on such claim shall not be subject to appeal, but the party against whom it is given may bring a suit in the Civil Court to establish his right at any time within one year from the date of the judgment.

Mode of adjudicating claims.

8. If a decree is given in favour of a sharer in a joint undivided estate, dependent taluq or other similar tenure for money due to him on account of

Execution of decrees given in favour of sharers in

[1] For these rules, see the Bengal Rent Recovery Act, 1865 (Ben. Act 8 of 1865), ss. 4, et seq., post, p. 232.

undivided
estates or
tenures.

his share of the rent of an under-tenure situate in such undivided estate or taluq or tenure, application for the sale of such under-tenure shall not be received unless execution shall have been first taken out against any moveable property which the judgment-debtor may possess within the district in which the suit was instituted and the sale of such property, if any, shall have proved insufficient to satisfy the judgment.

In such case such under-tenure, if of the nature described in section 105, may be brought to sale in execution of the decree in the same manner as any other immoveable property may be sold in execution of a decree for money under the provisions of the two next following sections.

If execution
against
immoveable
property when
money-decree
cannot be
otherwise
satisfied.

109. In the execution of any decree for the payment of money under this Act not being money due as arrears of rent of a saleable under-tenure, if satisfaction of the judgment cannot be obtained by execution against the person or moveable property of the debtor within the district in which the suit was instituted, the judgment-creditor may apply for execution against any immoveable property belonging to such debtor.

Execution
against house
or building.

110. If the immoveable property against which execution is applied for be a house or other building, process shall be issued in the same manner as for the attachment and sale of moveable property, and the provisions of sections 98 and 99 shall be applicable to the execution of such process.

Against
saleable
under-tenure.

If the property be a saleable under-tenure, it shall be sold under the provisions of the law for the time being in force applicable to the sale of such under-tenures for demands other than those of arrears of rent due in respect thereof.

If it be an
estate or a
share of an
estate.

If the property be an estate or a share of an estate, it shall be sold under the rules in force for the sale of estates for the recovery of demands recoverable by the same process as arrears of land-revenue.

Consequence
of objection
offered before
sale of
immoveable
property.

111. If, before the day fixed for the sale of any immoveable property as aforesaid, objection shall be offered to the sale on the ground of such property not belonging to the judgment-debtor, and consequently not being liable to be sold in execution of a decree against him, the Collector shall examine the party making the objection in the manner prescribed in section 100 for the examination of third parties, and, if satisfied that there is sufficient ground for so doing, shall stay the sale and proceed to inquire into and adjudicate upon the objection, in the same manner, and subject to the same right of suit by the party against whom judgment may be given, as is provided in section 107.

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THE BENGAL RENT ACT, 1859.

(Secs. 112-115.)

112. The produce of the land is held to be hypothecated for the rent payable in respect thereof; and, when an arrear of rent as defined in section 20 of this Act is due from any cultivator of land, the zamindar, lakhirajdar, farmer, dependent talukdar, under-farmer or other person entitled to receive rent immediately from such cultivator, instead of bringing suit for the arrear as hereinbefore provided, may recover the same by distraint and sale of the produce of the land on account of which the arrear is due under the following rules :

Produce of land held hypothecated for rent. Arrears of rent recoverable by distraint under following rules.

Provided always that, when a cultivator has given security for the payment of his rent, the produce of the land for the rent of which security has been given shall not be liable to distraint :

Cultivators who have given security exempt from distraint.

Provided also that no sharer in a joint estate, dependent taluk or other tenure in which a division of lands has not been made amongst the sharers shall exercise the power of distraint, otherwise than through a manager authorized to collect the rents of the whole estate, taluk or tenure on behalf of all the sharers in the same.

Proviso.

113. Distraint shall not be made for any arrear which has been due for a longer period than one year, nor for the recovery of any sum in excess of the rent payable for the same land in the preceding year, unless a written engagement for the payment of such excess has been executed by the cultivator.

Distraint when barred.

114. The power of distraint vested by section 112 in zamindars and other persons entitled to receive rent from cultivators of land may be exercised by managers under the Court of Wards, sarbarahkars and tahsildars of estates held under khas management, and other persons lawfully entrusted with the charge of landed property; and also by the naibs, gumashtas and other agents employed by any such persons as aforesaid in the collection of rent if expressly authorized by power-of-attorney in that behalf :

Power of distraint of managers under Court of Wards, etc.

Provided that, if any illegal act is committed by any such naib, gumashta or other agent under colour of the exercise of the said power, the person employing such agent shall be liable, as well as the agent, for any damages accruing by reason of such act.

Proviso.

115. Standing crops and other ungathered products of the earth, and crops or other products when reaped or gathered, and deposited in any threshing-floor or place for treading out grain or the like, whether in the field or within a homestead, may be distrained by persons invested with the powers of distraint under the provisions of this Act.

Standing crops and crops gathered but not stored liable to distraint.

But no such crops or products other than the produce of the land in respect of which an arrear of rent is due or of land held under the same engagement, and no grain or other produce after it has been stored by the cultivator, and no other property whatsoever, shall be liable to distraint under this Act.

Defaulter to be served with written demand, etc., before or at time of distraint.

116. Before or at the time when distraint is made under this Act, the distrainer shall cause the defaulter to be served with a written demand for the amount of the arrear, together with an account exhibiting the grounds on which the demand is made.

The demand and account shall, if practicable, be served personally on the defaulter, or, if he abscond or conceal himself so that they cannot be so served, shall be affixed at his usual place of residence.

Distress proportionate to arrear.
List of property served on owner.

117. Unless the amount of the demand is immediately paid or tendered, the distrainer may distrain property as aforesaid of value proportionate to the amount of the arrear with costs of the distress, and shall prepare a list or description of the said property, and deliver a copy of the same to the owner, or if he be absent affix it at his usual place of residence.

Standing crops, etc., when attached, to be reaped and stored by cultivator, or, if he neglect to do so, by distrainer.

118. Standing crops and other ungathered products may, notwithstanding the distraint, be reaped and gathered by the cultivator, and may be stored in such granaries or other places as are commonly used by him for the purpose.

If the cultivator neglect to do so, the distrainer shall cause the said crops or products to be reaped or gathered, and in such case shall store the same either in such granaries or other places as aforesaid, or in some other convenient place in the neighbourhood.

In either case the distrained property shall be placed in the charge of some person appointed by the distrainer for the purpose.

Crops or products which from their nature do not admit of being stored may be sold before they are cut or gathered, under the rules hereinafter provided; but in such case the distraint shall be made at least twenty days before the time when the crops or products or any part of the same would be fit for cutting or gathering.

Distrainer may apply for aid to Collector in case of resistance.

119. If a distrainer shall be opposed or shall apprehend resistance, and shall desire to obtain the assistance of a public officer, he may apply to the Collector, and the Collector may, if he thinks necessary, depute an officer to support the distrainer in making the distraint.

Servants employed to distraint to be

120. When any person empowered to distrain property under section 112 or section 114 shall employ a servant or other person to make the distress, he

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THE BENGAL RENT ACT, 1859.

(Secs. 121-124.)

shall give to such servant or person a written authority [1] for the same, and the distress shall be made in the name and on the responsibility of the person giving such authority. furnished with written authority.

121. If at any time after property has been distrained, and prior to the day fixed for its being put up to sale as hereinafter provided the owner of the property shall tender payment of the arrear demanded of him and of the expenses of the distress, the distrainer shall receive the same and shall forthwith withdraw the distress. Distress withdrawn if defaulter tender payment of arrear and expenses prior to sale.

122. Within five days from the time of the storing of any distrained crops or products, or if the crops or products do not, from their nature, admit of being stored, within five days from the time of making the distress, the distrainer shall apply for sale of the same to the Civil Court amin or other officer authorized to sell property in satisfaction of decrees of the Civil Court within the circle in which the distrained property is situate, or to such other public officer as the Local Government shall appoint for the purpose. Application for sale.

123. The application shall be in writing and shall contain an inventory or description of the property distrained, the name of the defaulter and his place of residence, the amount due and the date of the distress, and the place in which the distrained property is deposited. Form of application.

Together with the application, the distrainer shall deliver to the Civil Court amin or other officer the amount necessary for the service of a notice upon the defaulter as hereinafter provided. Deposit of cost of notice to defaulter.

124. Immediately on receipt of the application the Civil Court amin or other officer shall transmit a copy of it to the Collector ; and shall serve a notice (which shall be in the form (G) contained in the Schedule to this Act or to the like effect) on the person whose property has been distrained, requiring him either to pay the amount demanded, or to institute a suit to contest the demand before the Collector within the period of fifteen days from the receipt of the notice. Procedure of amin on receipt of application.

He shall at the same time send to the Collector, for the purpose of being put up in his office, a proclamation fixing a day for the sale of the distrained property, which shall not be less than twenty days from the date of the application ; and shall deliver a copy of the proclamation to the peon charged with the service of the notice to be put up by him in the place where the distrained property is deposited.

[1] The words "(which may be on plain paper)," which were repealed by the Court-fees Act, 67 of 1870—printed in General Acts, 1868-1876, Ed. 1898, p. 124), are omitted.

The proclamation shall contain a description of the property, the demand for which it is to be sold and the place where the sale is to be held.

Amin to suspend sale on receipt of Collector's certificate of institution of suit.

125. If a suit shall be instituted before the Collector in pursuance of the aforesaid notice, the Collector shall transmit to the Civil Court amin or other officer, or if so requested shall deliver to the owner of the [distrained property a certificate of the institution of such suit ; and on such certificate being received by or presented to the amin or other officer, he shall suspend proceedings in regard to the sale of the distrained property.

Suit to contest distrainer's demand before notice of sale.

126. A person whose property has been distrained in the manner hereinbefore provided may institute a suit to contest the demand of the distrainer immediately after the distraint of his property, and before the issue of notice of sale.

When such suit is instituted, the Collector shall proceed in the manner prescribed in the last preceding section.

If thereafter application for the sale of the property is made to the Civil Court amin or other officer, he shall transmit a copy of the application to the Collector and suspend further proceedings pending the decision of the case.

Distress withdrawn on receipt of Collector's certificate of execution of bond to pay amount due.

127. The person whose property has been distrained may, at the time of instituting any such suit as aforesaid or at any subsequent period, execute a bond with security binding himself to pay whatever sum may be adjudged to be due from him with interest and costs of suit, and when such bond is executed the Collector shall give to the owner of the property a certificate to that effect, or if so requested shall serve the distrainer with notice of the same and, upon such certificate being presented to the distrainer by the owner of the property or served on him by order of the Collector, the property shall be released from distraint.

On expiration of period fixed in proclamation of sale if institution of suit to contest demand not certified, sale may proceed.

128. On the expiration of the period fixed in the proclamation of sale, if the institution of a suit to contest the demand of the distrainer has not been certified to the Civil Court amin or other officer in the manner hereinbefore provided, he shall, unless the said demand, with such costs of the distress as shall be allowed by him, be discharged in full, proceed to sell the property or such part of it as may be necessary in the manner following.

Place and manner of sale of distrained property.

129. The sale shall be held at the place where the distrained property is deposited, or at the nearest ganj, bazar, hath or other place of public resort, if the Civil Court amin or other officer should be of opinion that it is likely to sell there to better advantage.

The property shall be sold by public auction in one or more lots as the

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THE BENGAL RENT ACT, 1859.

(Secs. 130-134.)

officer holding the sale may think advisable; and, if the demand with the costs of distress and sale be satisfied by the sale of a portion of the property, the distress shall be immediately withdrawn with respect to the remainder.

130. If on the property being put up for sale a fair price in the estimation of the officer holding the sale be not offered for it, and the owner of the property or some person authorized to act on his behalf apply to have the sale postponed until the next day, or the next market-day if a market be held at the place of sale, the sale shall be postponed until such day and shall be then completed at whatever price may be offered for the property.

If fair price not offered, sale may be postponed, and shall be then completed whatever price offered.

131. The price of every lot shall be paid for in ready money at the time of sale or as soon after as the officer holding the sale shall think necessary; and in default of such payment the property shall be put again and sold.

Payment of purchase-money.

When the purchase-money has been paid in full, the officer holding the sale shall give the purchaser a certificate describing the property purchased by him and the price paid.

132. From the proceeds of the sale of distrained property the officer holding the sale shall make a deduction at the rate of one anna in the rupee on account of the costs of the sale, and shall transmit the amount to the Collector in order that it may be credited to Government.

Disposal of proceeds of sale.

He shall then pay to the distrainer the expenses incurred by the distrainer on account of the distress and of the issue of the notice and proclamation of sale prescribed in section 124 to such amount as, after examination of the statement of expenses furnished by the distrainer, he shall think proper to allow.

The remainder shall be applied to the discharge of the arrear for which the distraint was made, with interest thereon up to the day of sale, and if there be any overplus, it shall be delivered to the person whose property shall have been sold.

133. Officers holding sales of property under this Act and all persons employed by or subordinate to such officers are prohibited from purchasing either directly or indirectly any property sold by such officers.

Officers holding sales prohibited from purchasing.

134. Civil Courtamins and other officers as aforesaid are required to bring to the notice of Collectors any material irregularities committed by distrainers under colour of this Act; and if in any case, on proceeding to hold a sale of property, the Civil Court amin or other officer shall find that the owner of the property has not received due notice of the distress and intended sale, he shall postpone the sale and report the case to the Collector, and the Collector shall

Irregularities to be reported to Collector.

Officer not to sell, if he find that defaulter has not received notice.

(Secs. 135-137.)

direct the issue of another notice and proclamation of sale under section 124 or pass such other order as he may think proper.

Recovery of expenses if amin proceeds to place of sale and no sale takes place.

135. When a Civil Court amin or other officer has proceeded to any place for the purpose of holding a sale and no sale takes place either for the reason stated in the last preceding section or because the demand of the distrainer has been previously satisfied, no intimation of such satisfaction having been given by the distrainer to the Civil Court amin or other officer, the charge of one anna in the rupee on account of expenses shall be leviable and shall be calculated on the estimated value of the distrained property.

If the demand of the distrainer be not satisfied until the day fixed for the sale, the charge for expenses shall be paid by the owner of the property and may be recovered by the sale of such portion thereof as may be necessary.

In every other case it shall be paid by the distrainer and may be recovered by attachment and sale of the property of the distrainer under the warrant of the Collector :

Provided always that in no case shall a larger amount than ten rupees be recoverable under this section.

Proceedings of amins, etc., subject to revision and orders of Collectors.

136. All proceedings under this Act of the Civil Court amins and other officers as aforesaid shall be subject to the revision and orders of the Collectors, and the Collectors, with the sanction of the [1][Board] of Revenue, may require the submission of such periodical reports and statements of business performed by the Civil Court amins and other officers as may be thought necessary.

Second proclamation of sale.

137. When a suit has been instituted to contest the demand of a distrainer and the property has not been released on security, if the demand or any portion of it shall be adjudged to be due, the Collector shall issue an order to the Civil Court amin or other officer authorizing the sale of the property, and on the application of the distrainer, which shall be made within five days from the receipt of such order by the Civil Court amin or other officer, such amin or officer shall publish a second proclamation in the manner prescribed in section 124, fixing another day for the sale of the distrained property, which shall not be less than five nor more than ten days from the date of the proclamation; and, unless the amount adjudged to be due with the cost of distress be paid intermediately, shall proceed to sell the property in the manner hereinbefore provided.

[1] The word "Board" in s. 136 was substituted for the word "Boards" by the Repealing and Amending Act, 1908 (1 of 1908), printed in Vol. 1, p. 18.

of 1859.]

THE BENGAL RENT ACT, 1859.

(Secs. 138, 139.)

138. In all suits instituted to contest the demand of a distrainer, the distrainer shall be required to prove the arrear in the same manner as if he had himself brought suit for the amount under the foregoing provisions of this Act.

Procedure after institution of suit to contest demand.

If the demand or any part thereof is found to be due, the Collector shall make a decree for the amount in favour of the distrainer, and the amount may be recovered by sale of the property as provided in the last preceding section if the distress has not been withdrawn, and, if any balance remain due after such sale, by execution of the decree against the person and any other property of the defaulter, or, if the property have been released on security, by execution of the decree against the person and property of the defaulter and of his surety.

If, on the other hand, the distraint is adjudged to be vexatious or groundless, the Collector, besides directing the release of the distrained property, may award such damages in favour of the plaintiff as the circumstances of the case shall seem to require.

139. If any person shall claim, as his own, property which has been distrained for arrears of rent alleged to be due from any other person, such person may institute a suit against the distrainer and such other person to try the right to the property in the same manner and under the same conditions as to the time of instituting the suit and to the consequent postponement of sale, as a person whose property has been distrained for an arrear of rent alleged to be due from him may institute a suit to contest the demand.

Owner of property distrained for arrears alleged to be due from another may institute suit against distrainer, etc.

When any such suit is instituted, the property may be released upon security being given for the value of the same.

If the claim is dismissed, the Collector shall make an order for the sale of the property or the recovery of the value thereof, as the case may be, for the benefit of the distrainer.

If the claim is upheld, the Collector shall decree the release of the distrained property with costs, and such damages (if any) as the circumstances of the case may seem to require:

Provided always that no claim to any produce of land liable to distraint under this Act, which at the time of the distress may have been found in the possession of a defaulting cultivator, whether such claim be in respect of a previous sale, mortgage or otherwise, shall bar the prior claim of the person entitled to the rent of the land, nor shall any attachment in execution of a judgment of any Civil Court prevail against such prior claim.

Procedure
if right to
distrain be
disputed.

140. If, in any case in which property has been distrained for an arrear of rent and a suit has been instituted to contest the demand, the right to distrain for such arrear is claimed by or on behalf of any person other than the distrainer on the ground of such other person being actually and in good faith in the receipt and enjoyment of the rent of the land, such other person shall be made a party to the suit, and the question of the actual receipt and enjoyment of the rent by such other person before and up to the time of the commencement of the suit shall be inquired into, and the suit shall be decided according to the result of such inquiry :

Provided always that the decision of the Collector shall not affect the right of either party who may have a legal title to the rent of the land to establish his title by suit in the Civil Court if instituted within one year from the date of the decision.

Persons pre-
vented from
suing in time
to save pro-
perty from
sale may sue
for damages.

141. If any person whose property has been distrained for the recovery of a demand not justly due, or of a demand due or alleged to be due from some other person, is prevented by any sufficient cause from bringing suit to contest the demand, or to try the right to the property, as the case may be, within the period allowed by sections 124 and 139, and his property is in consequence brought to sale, he may nevertheless institute a suit under this Act to recover damages for the illegal distress and sale of his property.

Also persons
aggrieved by
illegal act of
distrainer.

142. If any person empowered to distrain property or employed for the purpose under a written authority by a person so empowered, shall distrain or sell, or cause to be sold, any property for the recovery of an arrear of rent alleged to be due, otherwise than according to the provisions of this Act, or if any distrained property shall be lost, damaged or destroyed by reason of the distrainer not having taken proper precaution for the due keeping and preservation thereof, or if the distraint shall not be immediately withdrawn when it is required to be withdrawn by any provision of this Act, the owner of the property may institute a suit under this Act to recover damages for any injury which he may have thereby sustained.

Unlawful
distrain.

143. If any person not empowered to distrain property under sections 112 and 114 of this Act, nor employed for the purpose under a written authority by a person so empowered, shall distrain or sell or cause to be sold any property under colour of this Act, the owner of the property may institute a suit under this Act to recover damages from such person for any injury which he may have sustained from the distraint or sale.

of 1859.]

THE BENGAL RENT ACT, 1859.

(Secs. 144-147.)

The said person shall be held to have committed criminal trespass, and shall be subject to the penalties for that offence in addition to any damages which may be awarded against him in such suit :

144. Provided always that any suit which may be instituted under any of the last three sections shall be commenced within three months from the date of the occurrence of the cause of action.

Time for commencing suits for damages.

[1]145. If any person shall resist a distraint of property duly made under this Act, or shall forcibly or clandestinely remove any distrained property, the Collector, upon complaint being made within fifteen days from the date of such resistance or removal, shall cause the person accused to be arrested, and, if the offence be proved and the offender be the owner of the property, shall order him to be imprisoned in the civil jail for six months, or until the whole arrear due to the distrainer with all expenses and costs shall sooner be paid or levied by distress and sale of the property of the offender under warrant of the Collector.

Resistance of distraint.

If the person convicted of the offence be any other than the owner of the property, he shall make good to the distrainer the value of the same, and shall further be liable to a fine not exceeding one hundred rupees, or, in default of payment thereof, to imprisonment for a period not exceeding two months.

146. Every process issued by a Collector under this Act shall be under the seal and signature of the Collector, and shall be served or executed by the nazir or by such other officer as the Collector may direct at the cost of the party at whose instance it issued.

Service of process.

The amount of such cost, and, in the case of summons to a witness, any sum required for the travelling expenses of such witness, shall be deposited in Court before the process is issued :

Provided that, if in any case the Collector is satisfied that a party is unable to pay the cost of any necessary process, he may direct such process to be served free of charge.

147. Any resistance or opposition to the lawful process of a Collector under this Act may be punished by the Collector according to the provisions of the law for the time being in force for the punishment of resistance or opposition to the processes of the Courts of civil justice.

Resistance of process.

When in any such case the offender is not present in Court, the Collector may summon him to answer to the charge, and, if after due service of the summons he fail to attend, may issue a warrant for his apprehension.

[1] As to the immediate disposal of the case, where a person is arrested under s. 145, see the Bengal Rent Act, 1862 (Ben. Act 6 of 1862), s. 18, *post*, p. 229.

Orders passed by Collectors under this section shall not be deemed to be orders relating to the trial of suits or to the execution of decrees within the meaning of section 151.

Place of holding Court.

148. It shall be competent to the Collector to hold a Court for hearing and determining suits under this Act in any place within the limits of his district or local jurisdiction :

Proviso.

Provided that every hearing and decision shall be in open Court, and that the parties to the suit or their authorized agents shall have had due notice to attend at such place.

149. [*Agents or mukhtdrs.*] *Rep. by the Pleaders, Mukhtdrs and Revenue Agents Act, 1865 (20 of 1865).*

150. [*Powers of Deputy Collectors.*] *Rep. by the Bengal Rent Act, 1862 (Ben. Act 6 of 1862).*

Control of Collectors and Deputy Collectors.

151. In the performance of their duties under this Act the Collectors and Deputy Collectors shall be subject to the general direction and control of the Commissioners and the [1] [Board] of Revenue; and the Deputy Collectors shall be subject to the direction and control of the Collectors to whom they are subordinate.

No appeal from orders of Collectors and Deputy Collectors in certain cases.

All orders passed by a Collector under this Act, not being judgments in suits or orders passed in the course of suits and relating to the trial thereof or orders passed after decree and relating to the execution thereof, shall be appealable to the Commissioner; and all such orders passed by a Deputy Collector shall be appealable to the Collector; but no judgment of a Collector or Deputy Collector in any suit, and no order of a Collector or Deputy Collector passed in any suit and relating to the trial thereof, or after decree and relating to the execution thereof, shall be open to revision or appeal otherwise than as expressly provided in this Act.

Time for presenting appeals from orders.

152. Every appeal against the order of a Collector shall be presented to the Commissioner within thirty days, and every appeal against the order of a Deputy Collector shall be presented to the Collector within fifteen days, from the date of the order.

Orders passed in appeal by a Commissioner or a Collector shall not be open to any further appeal, but the Board of Revenue or the Commissioner may call for any case and pass such orders thereon as they may think proper.

When appeal allowed from

153. In suits under clauses (2), (4) and (7) of section 23 and under section 24 of this Act, tried and decided by a Collector, if the amount sued for or the

[1] The word "in a" in s. 151 was substituted for the word "Boards" by the Repealing and Amending Act, 18 (1 of 1908), printed in Vol. I, p. 18.

of 1859.]

THE BENGAL RENT ACT,

(Secs. 154-158.)

value of the property claimed does not exceed one hundred rupees, the judgment of the Collector shall be final and not open to revision or appeal except as hereinafter provided, unless in any such suit a question of right to enhance or otherwise vary the rent of a raiyat or tenant, or any question relating to a title to land, or to some interest in land as between parties having conflicting claims thereto, has been determined by the judgment, in which case the judgment shall be open to appeal in the manner provided in sections 160 and 161 of this Act.

judgment of Collector for money below 100 rupees.

154. In suits in which the judgment of the Collector is final as provided in the last preceding section, the Collector may, upon the application of either party, if preferred within thirty days from the date of the decision, order the re-hearing of a suit, upon the ground of the discovery of new evidence or matter material to the issue of the case which the applicant had no knowledge of or could not produce, at the time of trial.

Re-hearing in suits not open to appeal.

155. When any such suit as aforesaid, in which if tried and decided by a Collector the judgment of the Collector would be final, is tried and decided by a Deputy Collector, an appeal from the judgment of the Deputy Collector shall lie to the Collector.

Appeal from decision of Deputy Collector.

156. The petition of appeal shall be written * * * [1] and shall be presented to the Collector within fifteen days from the date of the decree, provided that such time as may be requisite for procuring a copy of the decree appealed against shall not be reckoned as part of the fifteen days.

Petition of appeal.

157. The Collector shall fix a day for hearing the appeal, and shall cause notice of the same to be served on the respondent in the manner hereinbefore prescribed for the service of summons.

Procedure in appeal.

If, on the day fixed for hearing the appeal or any other day to which the hearing may be adjourned, the appellant shall not appear in person or by an agent, the appeal shall be dismissed for default.

If the appellant shall appear and the respondent shall not appear in person or by an agent the appeal shall be heard *ex parte*.

158. If an appeal be dismissed for default of prosecution, the appellant may, within fifteen days from the date of the dismissal, apply to the Collector for the re-admission of the appeal, and, if it shall be proved to the satisfaction of the Collector that the appellant was prevented by any sufficient cause from

Re-admission of appeal.

[1] So much of s. 156 as relates to the stamp to be borne by a petition of appeal having been repealed by the Court-fees Act, 1870 (7 of 1870), the words "on stamp paper of eight annas value" have here been omitted.

appearing when the appeal was called on for hearing, the Collector may re-admit the appeal.

Judgment in appeal.

159. After hearing the appeal the Collector shall give judgment in the manner hereinbefore prescribed for giving judgment in original suits, and the judgment of the Collector shall be final.

In what suits appeal to lie to Zila Judge;

[1] 160. In all suits other than those, in which, when tried and decided by a Collector, the judgment of the Collector is declared to be final, or when tried and decided by a Deputy Collector an appeal is allowed to the Collector, an appeal from the judgment of the Collector or Deputy Collector shall lie to the Zila Judge; unless the amount or value in dispute exceed five thousand rupees, in which case the appeal shall lie to the Sadar Court.

to Sadar Court.

Presentation and hearing of appeals.

[1] 161. The petition of appeal shall be written; * * * [2] and the rules in force in regard to the time within which appeals from the decisions of such Courts may be received, and to the manner in which such appeals are heard and determined, and to all proceedings which may be had in respect of such appeals, shall be applicable to appeals to the Zila Judge or Sadar Court under this Act.

162. [*Revenue-offices in which suits to be preferred.*] *Rep. by the Bengal Rent Act, 1862 (Ben. Act 6 of 1862).*

No jurisdiction in Collector as to lands beyond district.

163. * * * [3] no Collector shall exercise any jurisdiction under this Act in respect to any lands situate beyond the limits of the district to which he is appointed, by reason of such lands forming part of an estate, the revenue of which is paid into the treasury of the said district.

Deputy Collector when not to exercise judicial powers.

164. No Deputy Collector appointed under Regulation 9, 1833, [4] of the Bengal Code shall exercise any judicial powers or other jurisdiction under this Act if entrusted with any police-functions.

Powers to be exercised by Assistants to Collectors.

165. Assistants to Collectors shall not exercise any powers under this Act unless invested by Government with the powers of Deputy Collectors, in which case they may exercise the powers hereby assigned to Deputy Collectors.

[1] As to the application of ss. 160 and 161 to other cases, see the Bengal Rent Act, 1862 (Ben. Act 6 of 1862), s. 10, *post*, p. 226.

[2] So much of s. 161 as relates to the stamp to be borne by a petition of appeal having been repealed by the Court-fees Act, 1870 (7 of 1870), the words "on the stamp paper prescribed for appeals from the subordinate Civil Courts with reference to the amount or value of the property involved in the appeal" have here been omitted.

[3] The words "except as provided in the last preceding section," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

[4] The Bengal Land-revenue (Settlement and Deputy Collectors) Regulation, 1833, printed *post*, under the head "Land-revenue."

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THE BENGAL RENT ACT, 1859.

(Secs. 166-168.—Schedule.—Form A.)

166. Nothing contained in this Act shall be held to affect the right, vested in proprietors of land under direct engagements with Government, of bringing to sale for arrears of rent patni taluks and other similar tenures under the provisions of Regulation 8, 1819.[1]

Saving of rights of proprietors as to tenures under Reg. 8, 1819.

167. [Commencement of Act.] Rep. by the Repealing Act, 1870 (14 of 1870).

168. The words "civil jail" as used in this Act shall include the civil "Civil jail." jail of the zila and any place appointed by the Executive Government for the confinement of prisoners by any Court constituted under this Act:

The word "nazir" shall include any officer of a Court authorized to serve "Nazir," or execute its process:

* * * * *

[2]

SCHEDULE.

FORM A (see section 44).

FORM OF SUMMONS TO DEFENDANT.

No. (of suit) dated

In the Court of

A. B., Plaintiff.

[Name, description and address of plaintiff.]

C. D., Defendant.

[Name, description and address of defendant.]

Whereas the said A. B. has brought a claim against you in this Court for [here specify particulars of claim as given in the statement], you are hereby required to appear in person in this Court on the day of [if not specially required to appear in person, state, "in person or by an agent who has personal knowledge of the subject or who shall be accompanied by a person who has such knowledge"] to answer the above-named plaintiff, and you will bring with you (or send by your agent) [here mention any document the production of which may be required by the plaintiff] which the plaintiff desires to inspect, and all documents on which you may intend to rely in support of your defence. You will also bring with you your witnesses, if they are willing to attend without issue of process.

The Bengal Patni Taluks Regulation, 1819. It is printed ante, p. 155.

The clause in s. 168 as to number and gender, which was repealed by the Repealing and Amending Act, 1903 (1 of 1903), is omitted. See now the General Clauses Act, 1897 (10 of 1897), s. 13, in General Acts, 1891-98, Ed. 1899, p. 325.

LANDLORD AND TENANT.

THE BENGAL RENT ACT, 1859.

[Act 10]

*(Schedule.—Forms B, C and D.)*FORM B (*see section 49*).

FORM OF WARRANT OF ARREST

No. _____ (of suit) dated _____
 In the Court of _____

A. B., Plaintiff.

C. D., Defendant.

To the Nazir of the Court of the Collector of _____

Whereas the plaintiff in this suit has obtained an order from the Court for the arrest of the defendant, you are hereby commanded to bring the defendant before the Court on or before the _____ day of _____ to be dealt with according to law.

Dated this _____ day of _____ 18 ____.

FORM C (*see section 49*).

FORM OF NOTICE TO ACCOMPANY SUCH WARRANT.

In the Court of _____

A. B., Plaintiff.

[*Name, description and address of plaintiff.*]

C. D., Defendant.

[*Name, description and address of defendant.*]

Whereas the said A. B. has brought a claim against you in this Court for [*here specify particulars of claim as given in the statement*] and has obtained a warrant for your arrest, you are hereby required, unless you admit the claim, to bring with you to the Court all documents on which you may intend to rely in support of your defence.

FORM D (*see section 51*).

FORM OF SECURITY-BOND FOR APPEARANCE OF DEFENDANT.

Whereas A. B., plaintiff, has instituted a suit in the Court of the Collector of _____ against C. D., defendant, and the said C. D. has been required to give security for his appearance at any time when called on while the suit is depending and until execution of the decree, I, E. F., hereby declare myself surety for the said C. D.'s appearance as aforesaid, and, in case of his making default in such appearance, I engage to pay any sum for the payment of

of 1859.]

THE BENGAL RENT ACT, 1859.

(Schedule.—Form G.)

which the said C. D. may be liable under the decree. *[If the suit be for the delivery of papers or accounts, specify some sum to be fixed by the Collector.]*

FORM E (see section 86).

WRIT OF EXECUTION AGAINST THE PERSON.

[Rep. by the Repealing and Amending Act, 1891 (12 of 1891). Reprinted in footnote on pages 228, 229, post.]

FORM F (see section 86).

WRIT OF EXECUTION AGAINST THE EFFECTS.

[Rep. by the Repealing and Amending Act, 1891 (12 of 1891). Reprinted in footnote on page 229, post.]

FORM G (see section 124).

FORM OF NOTICE TO OWNER OF DISTRAINED PROPERTY.

Office of

Commissioner for sale of distrained property.

A. B., Distrainer.

[Name, description and address of the owner of the property.]

Whereas the said A. B. has applied to have the distrained property specified below sold for the recovery of alleged to be due to him as arrears of rent, you are hereby required either to pay the said sum to the said A. B., or to institute a suit before the Collector to contest the demand within fifteen days from the receipt of this notice, failing which the property will be sold.

Dated this

day of

18 .

THE BENGAL RENT ACT, 1862 ^[1]

(BENGAL ACT 6 OF 1862).

[14th May, 1862.]

An Act to amend Act 10 of 1859 ^[2] (to amend the law relating to the recovery of Rent in the Presidency of Fort William in Bengal)..

Preamble.

WHEREAS it is expedient to amend Act 10 of 1859, ^[2] so far as the same relates to the Provinces subject to the Government of Bengal; It is enacted as follows:—

1. [Repeal of certain sections of Act 10 of 1859.] *Rep. by the Repealing and Amending Act, 1903 (1 of 1903).*

When Court may award to plaintiff additional damages not exceeding

2. In any suit * * * ^[3] for rent under Act 10 of 1859, ^[2] if it shall appear to the Court that the defendant has without reasonable or probable cause neglected or refused to pay the amount due by him, and that he has not before the institution of the suit tendered such amount to the plaintiff

[1] SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), printed in Vol. I, p. 18.

LEGISLATIVE PAPERS.—The Bill (without any Statement of Objects and Reasons) was published in the Calcutta Gazette, 1862, page 602; for Report of Select Committee, *see ibid.*, page 1819.

LOCAL EXTENT.—Since this Act is (*see* section 21, *post*, page 230) to be “read with and taken as part of” Act 10 of 1859, it applied originally, like the latter Act, to the whole of Bengal. It has, however, been repealed by the Bengal Tenancy Act, 1885 (8 of 1885), s. 2 (1) (printed *post*, p. 253), in the whole of Bengal except “the town of Calcutta, the Division of Orissa and the Scheduled Districts.”

As to the extension of this repeal to the Division of Orissa, *see* s. 2 (2) of the Act of 1885, *post*, p. 253.

The extension of the repeal to Scheduled Districts depends upon the terms of notifications extending the Act of 1885 to such Districts. ~~Under the terms of the Notification extending the Act of 1885 to the Jalpaiguri District, the repeal has taken effect in that District.~~

The Act has also been repealed in the Chota Nagpur Division (except the District of Manbhum) by the Chota Nagpur Landlord and Tenant Procedure Act (Ben. Act 1 of 1879), *intd post*, p. 356.

~~The Act has been declared, by Notification under the Scheduled Districts Act, 1874 (14 of 74), section 2, to be in force in the Manbhum District, *see* Vol. V, Pt. V B (1).~~

The application of the Act in the de-regulationised tracts in Bengal is barred as follows, namely:—

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), section 3 (2), printed in Vol. I, p. 257,

and

in the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation (3 of 1872), section 8 (2), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), section 3, printed in Vol. I, p. 294.

Ben. Act 6 of 1862 appears to be in force now only in the Darjeeling and Manbhum Districts, while such portions of the Act as are not inconsistent with the portions of Act 8 of 1885 which have been extended to the Orissa Division are also in force in that Division.

APPEALS.—As to the appointment of officers to hear appeals under this Act, *see* the Bengal Rent (Appeals) Act, 1867 (Ben. Act 4 of 1867), s. 5, *post*, p. 236.

[2] The Bengal Rent Act, 1853. It is printed *ante*, p. 182.

[3] Formal words in s. 2, which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

in Manbhum Dist. by Ben. Act 6 of 1905.

of 1862.]

THE BENGAL RENT ACT, 1862.

(Secs. 3, 4.)

or his duly authorized agent, or, in case of refusal of the plaintiff or such agent to receive the amount tendered, has not deposited such amount with the Collector before the institution of the suit in manner hereinafter mentioned, it shall be lawful for the Court to award to the plaintiff, in addition to the amount decreed for rent and costs, such damages, not exceeding twenty-five *per cent.* on the amount of rent decreed, as the Court may think fit.

twenty-five
per cent.

These damages, if awarded, as well as the amount of rent and costs decreed in the suit, shall carry interest at the rate of twelve *per cent. per annum* from the date of decree until payment thereof, and shall be recoverable from the defendant in like manner as sums decreed to be paid by defendants under Act 10 of 1859 [1] are recoverable.

3. In any suit * * [2] for rent under Act 10 of 1859, [1] if it shall appear to the Court that the plaintiff has instituted the suit against the defendant without reasonable or probable cause, or that the defendant before the institution of the suit duly deposited with the Collector in the manner hereinafter mentioned the full amount which the Court shall find to have been due to the plaintiff at the date of such deposit, it shall be lawful for the Court to award to the defendant by way of compensation such sum, not exceeding twenty-five *per cent.* on the whole amount claimed by the plaintiff, as the Court may think fit; and such sum, with interest at the rate of twelve *per cent. per annum* until payment thereof, shall be recoverable from the plaintiff in like manner as sums decreed to be paid by defendants under Act 10 of 1859 [1] are recoverable.

Court may
award to
defendant
compensation
not exceeding
twenty-five
per cent.

on amount
improperly
sued for.

4. If any under-tenant or raiyat shall, at the mál cutocherry for the receipt of rents or other place where the rents of the land held or cultivated by him are usually payable, tender payment of what he shall consider to be the full amount of rent due from him at the date of the tender to the zamindar or other person in receipt of the rent of such land, and if the amount so tendered shall not be accepted, and a receipt in full forthwith granted, it shall be lawful for the under-tenant or raiyat, without any suit having been instituted against him, to deposit such amount in the Collector's Court, to the credit of the zamindar or other person aforesaid.

Under-tenant
or raiyat may,
after tender,
pay into
Court, with-
out suit
brought, what
he admits to
be due to
zamindar, etc.

And such deposit shall, so far as the under-tenant or raiyat and all persons claiming through or under him are concerned, in all respects operate

Payment into
Court to have
effect of pay-

[1] The Bengal Rent Act, 1859. It is printed *ante*, p. 182.

[2] Formal words in s. 3, which were repealed by the Repealing and Amending Act, 1903 (1 1903), are omitted.

ment to zamindar or person entitled.

Proceedings on payment into Court.

as and have the full effect of a payment then made by the under-tenant or raiyat, of the amount deposited, to such zamindar or other person.

5. The Collector shall receive such deposit on the application of the under-tenant or raiyat, or his agent, made in writing * * *, [1] and on the under-tenant or raiyat, or his agent, making a declaration in the form, or as nearly as circumstances will admit in the form, set forth in the Schedule A hereto annexed; and the Collector shall give a receipt for the same.

If the declaration shall contain any averment which the person making the declaration shall know or believe to be false, or shall not know or believe to be true, such person shall be subject to punishment according to the law [2] for the time being in force for the punishment of giving or fabricating false evidence.

Upon receiving the money so deposited, the Collector shall issue a notice to the person to whose credit it has been deposited in the form set forth in the Schedule B hereto annexed, and such notice shall be served by the Collector, without the payment of any fee, either upon the person to whom it is addressed or upon his naib, gumáshta or other agent; and in the absence of any such agent it shall be served by sticking up a copy of the same in the office of the Collector, and another copy at the mál cutcherry for the receipt of rents, or other place where the rents are usually paid for the land in respect of which the money has been deposited.

Payment to creditor.

If the person to whom such notice is issued, or his duly authorized agent, shall appear and apply that the money in deposit be paid to him, it shall be immediately made over to him.

Limitation of suit for further balance.

6. Whenever a deposit shall have been made under the provisions of this Act, no suit shall be brought against the person making the deposit or his representatives on account of any rent which accrued due prior to the date of the deposit, unless such suit is instituted within six months from the date of the service of the notice in the fifth section of this Act mentioned.

After suit brought, defendant may pay into Court, without costs,

7. The defendant in any suit under this Act or under Act 10 of 1859 [3] instituted after the passing of this Act may, if he have duly tendered the same to the plaintiff before the institution of the suit, pay into Court such sum of money as he shall consider to be due to the plaintiff without paying in any

[1] Words as to stamp duty, which were repealed by the Court-fees Act, 1870 (7 of 1870), are omitted.

[2] See the Indian Penal Code (Act 45 of 1860), Chapter XI, in General Acts, 1834-67, Ed. 1898, p. 291.

[3] The Bengal Rent Act, 1859. It is printed *ante*, p. 182.

of 1862.]

THE BENGAL RENT ACT, 1862.

(Secs. 8, 9.)

costs incurred by the plaintiff up to the time of such payment, and such sum shall be immediately paid out of Court to the plaintiff. money tendered before,

If after such payment the plaintiff elects to proceed in the suit, and ultimately recovers no further sum than shall have been paid into Court, the plaintiff shall be charged with the whole costs of the suit incurred by the defendant; but if the plaintiff ultimately recovers a further sum than shall have been paid into Court, the defendant shall be charged with the whole costs of the suit. Costs if plaintiff goes on with the suit.

8. The defendant in any suit under this Act or under Act 10 of 1859 [1] * [2] may, without having made any tender before action brought, pay into Court such sum of money as he shall consider to be due to the plaintiff, together with the costs (to be fixed by the Court, if necessary, as of a suit originally instituted for the amount so paid into Court) incurred by the plaintiff up to the time of such payment, and such sum shall immediately be paid out of Court to the plaintiff. If no previous tender has been made, defendant may pay into Court what he admits to be due with costs on that sum.

If after such payment the plaintiff elects to proceed in the suit, and ultimately recovers no further sum than shall have been paid into Court, he shall be charged with all costs incurred by the defendant subsequently to such payment; but, if the plaintiff ultimately recovers a further sum than shall have been paid into Court, the defendant shall (including the sum paid into Court by him in the first instance on account of costs) be charged with costs as upon a suit originally instituted for the whole amount for which the plaintiff ultimately obtains a decree. Costs if plaintiff goes on with the suit.

9. Every proprietor of an estate or tenure, or other person in receipt of the rents of an estate or tenure, has a right of making a general survey and measurement of the lands comprised in such estate or tenure, or any part thereof, unless restrained from doing so by express engagement with the occupants of the lands. Survey and measurement of lands.

If any person intending to measure any land which he has a right to measure is opposed in making such measurement by the occupant of the land, or if any under-tenant or raiyat, having received notice of the intended measurement of land held or cultivated by him, which is liable to such measurement, refuses to attend and point out such land, such person may make application [3] to the Collector, and the Collector shall thereupon proceed to inquire into the

[1] The Bengal Rent Act, 1859. It is printed *ante*, p. 182.

[2] Formal words which were repealed by the Repealing and Amending Act, 1903 (1 of 1903) are omitted.

[3] The court-fee on an application under s. 9 is five rupees—see the Court-fees Act, 1870 (7 of 1870), Sch. II, Art. 13, in General Acts, 1868-76, Ed. 1898, p. 163.

case in the manner provided for suits under Act 10 of 1859, [1] and shall pass a decision either allowing or disallowing the measurement, and, if the case so require, enjoining or excusing the attendance of any such under-tenant or raiyat.

If any under-tenant or raiyat, after the issue of an order enjoining his attendance, neglects to attend and to point out the land, it shall not be competent to him to contest the correctness of the measurement made or any of the proceedings held in his absence.

Measurement of lands, where it cannot be ascertained who are the persons liable to pay rent.

10. If the proprietor of an estate or tenure, or other person entitled to receive the rents of an estate or tenure, is unable to measure the lands comprised in such estate or tenure or any part thereof, by reason that he cannot ascertain who are the persons liable to pay rent in respect of the lands or any part of the lands comprised therein, such proprietor or other person may petition the Collector in respect of the lands which he cannot measure as aforesaid; and the Collector thereupon, and on the necessary costs being deposited with him by the applicant, shall proceed to measure the land and to ascertain and record the names of the persons in occupation of the same, or on the special application of the proprietor or other person aforesaid, but not otherwise, shall proceed to ascertain, determine and record the tenures, and under-tenures, the rates of rent payable in respect of such lands, and the persons by whom respectively the rents are payable.

The provisions of section 67 of Act 10 of 1859 [1] shall apply to any proceeding of the Collector instituted under this section.

If after due inquiry the Collector shall be unable to measure the land, or to ascertain or record the names of the persons in occupation of the same, or if he shall (in any case in which such special application shall have been made as aforesaid) be unable to ascertain who are the persons having tenures or under-tenures in such lands or any part thereof, then and in any such case he may declare the same to have lapsed to the party on whose petition he has made the inquiry.

If any person, within fifteen days after the Collector shall have recorded the name of such person as being in occupation of such land or any part thereof, or shall have declared a tenure to have lapsed, shall appear and show good and sufficient cause for his previous non-appearance, and shall satisfy the Collector that there has been a failure of justice, the Collector may, upon such

[1] The Bengal Rent Act, 1859. It is printed *ante*, p. 182.

of 1862.]

THE BENGAL RENT ACT, 1862.

(Secs. 11-14.)

terms or conditions as he may think proper, alter or rescind his declaration according to the justice of the case.

Save as aforesaid, the decision of the Collector on all matters, inquired into and determined by him under this or the last preceding section shall be final, unless the same shall be reversed on appeal therefrom to the Civil Court.

Such appeals shall lie to the Zila Judge or to the Sadar Court, subject to the provisions and conditions contained in sections 160 and 161 of Act 10 of 1859.[1]

11. All measurements made under this Act shall be made by the standard pole of measurement of the pargana in which the land is situated.

Measurements to be by pargana pole. Form of plaint in suits for arrears of rent.

12. In any suit * * [2] for the recovery of an arrear of rent, the statement shall specify the name of the village and estate and of the pargana or other local division in which the land is situate, the yearly rent of the land, the amount (if any) received on account of the year for which the claim is made, the amount in arrear, and the time in respect of which it is alleged to be due.

If the arrear is alleged to be due from any raiyat, the statement shall further specify the quantity of land, and, where fields have been numbered in a Government survey, the number (if it be possible to give it) of each field.

13. In all cases in which the Collector shall pass an order under section 58 of Act 10 of 1859 [1] for setting aside a judgment, the order shall be final; but in all appealable cases in which the Collector shall reject the application an appeal shall lie from the order of rejection to the tribunal to which the final decision in the suit would be appealable :

Order under section 58 of Act 10 of 1859 to set aside judgment to be final, but rejection of application to set it aside appealable.

Provided that the appeal be preferred within the time allowed for an appeal from such final decision. * * * * [3]

14. * * * * [4] In awarding costs to either party in any suit * * [2] under [Act 10 of 1859] [5] or under this Act, it shall be competent for the Collector to award to such party, on account of the fees of any agent or mukhtár employed by him, such a sum, not exceeding the rate of fee

Fees to agents and mukhtárs.

[1] The Bengal Rent Act, 1859. It is printed *ante*, p. 182.

[2] Formal words which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

[3] Words as to stamp duty, which were repealed by the Court-fees Act, 1870 (7 of 1870), are omitted.

[4] A repealing clause, which was repealed by the Repealing and Amending Act, 1903 (1 of 1903), is omitted.

[5] The words and figures "Act 10 of 1859" were substituted for the words "the said Act" by the Repealing and Amending Act, 1903 (1 of 1903), printed in Vol. I, p. 18.

chargeable under the provisions of [section 27 of the Legal Practitioners 18 of 1879. Act, 1879,] [1] for pleaders in the Civil Courts, as the Collector may direct.

Language of
Collector's
judgment.

15. The Collector shall pronounce judgment in all cases tried under this Act or under Act 10 of 1859 [2] in open Court.

The judgment shall be written in the vernacular language of the Collector, and shall contain the reasons for the same, and shall be dated and signed by the Collector at the time when it is pronounced :

Provided that, if the vernacular language of the Collector be not English, and the Collector be sufficiently conversant with the English language to be able to write a clear and intelligible decision in that language, and prefer to write his judgment in it, the judgment may be written in English.

Attachment
before judg-
ment.

16. The provisions relating to attachment before judgment contained in sections 81 to 90, both inclusive, of Act 8 of 1859 [3] (*for simplifying the Procedure of the Courts of the Civil Judicature not established by Royal Charter*) are hereby extended to all suits * * [4] under this Act or Act 10 of 1859 [2].

Execution
to issue at
time of
decree on
oral applica-
tion; after-
wards on
application
in writing.

17. Process of execution in any suit * * [4] under this Act or under Act 10 of 1859 [2] may be issued against either the person or the property of a judgment-debtor, but process shall not be issued simultaneously against both person and property.

It may be issued on the oral application of the judgment-creditor, his agent or mukhtár, made at the time the judgment is pronounced or thereafter upon the written application of the judgment-creditor, his agent or mukhtár presented to the Court by which the judgment was given.

Process of execution against the person or moveable property of a debtor shall be in the Form E [5] or the Form F [5] contained in the Schedule to Act 10 of 1859 [2], or in a form as nearly resembling those forms as the circumstances of the case may admit.

[1] This reference was substituted for the reference "section 7 of Act 1 of 1846" by the Repealing and Amending Act, 1903 (1 of 1903), printed in Vol. I, p. 18. Act 18 of 1879 is printed in the General Acts, 1877-81, Ed. 1898, p. 267.

[2] The Bengal Rent Act, 1859. It is printed *ante*, p. 182.

[3] The present Code of Civil Procedure is Act 14 of 1882, and this reference should now be as applying to the corresponding parts of that Code [*vis.*, ss. 483 to 489, 491 and 583 (24)]—see s. 3 thereof, in General Acts, 1882-1884, Ed. 1898, p. 264.

[4] Formal words which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

[5] These Forms have not been reprinted with Act 10 of 1859, because they were repealed by the Repealing and Amending Act, 1891 (12 of 1891). The present reference was, however, saved by section 3 of that Act. The forms are as follow :—

FORM E.

WRIT OF EXECUTION AGAINST THE PERSON.

A. B., Plaintiff,
C. D., Defendant.

of 1862.]

THE BENGAL RENT ACT, 1862.

(Secs. 18-20.)

18. If any person shall * * * * * [1] be arrested under section 145 of the said Act 10 of 1859 [2], he shall be brought before the Collector with all convenient speed, and the Collector shall proceed forthwith to try the case.

If person is arrested under section 145 of Act 10 of 1859, case to be disposed of at once.

If the case cannot be at once heard and determined, the Collector may, if he think fit, require the person arrested to give security for his appearance whenever the same is required.

In default of such security the person arrested shall be committed to the civil jail till the case is heard.

19. All the powers vested in the Collector by any of the sections of this Act or of Act 10 of 1859 [2] may be exercised by any Deputy Collector in cases referred to him by a Collector, and in all cases without such reference by any Deputy Collector placed in charge of any sub-division of a district, or who is specially authorized by Government to receive such cases; and all applications and reports allowed or required by the said Act 10 of 1859 [2] or by this Act to be made to the Collector may be made to any Deputy Collector having such local jurisdiction or such special authority as aforesaid.

Deputy Collectors powers.

20. Suits under this Act, or under Act 10 of 1859 [2] shall be preferred in the revenue office of the district, or, when a sub-division of a district has been placed under the jurisdiction of a Deputy Collector, in the revenue office

In what Court suits are to be instituted.

To the Nazir of the Court of the Collector of

Whereas the said C. D. was directed by a decree of this Court, under date the day of 18, to pay to A. B. the sum of and for costs of suit, amounting to, and whereas the said C. D. has omitted to pay the same, you are hereby commanded to apprehend the said C. D., and to bring him with all convenient speed before this Court to be dealt with according to law.

FORM F.

WRIT OF EXECUTION AGAINST THE EFFECTS.

A. B., Plaintiff,
C. D., Defendant.

To the Nazir of the Court of the Collector of

Whereas C. D. was directed by a decree of this Court, under date the day of 18, to pay to A. B. the sum of and for costs of suit, amounting to, and whereas the said C. D. has omitted to pay the same, you are hereby commanded to levy the said sum of, and the sum of for costs of executing this process, by seizure and sale of such moveable property of the said C. D. as is described in the list annexed, and [if no list is furnished, these words to be omitted] shall be pointed out to you by the judgment-creditor or his agent: and you are hereby ordered to sell such property of the said C. D. on some convenient day, not being less than ten nor more than fifteen days from the day of seizure, unless the amount leviable as aforesaid shall be sooner paid; and you are hereby commanded to certify to me what you shall do by virtue of this warrant.

[1] Formal words which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

[2] The Bengal Rent Act, 1859. It is printed *ante*, p. 182.

of the sub-division in which the cause of action shall have arisen, or, when the cause of action shall have arisen within the limits of the local jurisdiction of any Deputy Collector not in charge of a sub-division, but who has been specially authorized by Government to receive such suits, then in the office of such last-mentioned Deputy Collector :

Provided always that the Collector may withdraw any suit from any Deputy Collector and try it himself, or refer it to another Deputy Collector.

If the lands comprised in any taluk, farm or other tenure, or any lands held under one lease or engagement, or at one entire rent, in respect of which arrears of rent may be due, are situated in more than one district or sub-division, or within the local limits of the jurisdiction of more than one Deputy Collector so specially authorized as aforesaid, the district or sub-division or local limits in which the greater part of such lands is situate shall be held to be the district or sub-division or local limits in which the cause of action has arisen ; and, if any question shall be raised respecting the district or sub-division or local limits within which the greater part of the lands is situate, the Board of Revenue or, if all the lands be situate in one district, the Collector of the district shall decide the question ; and such decision shall be conclusive on the point of jurisdiction.

This Act to
be read with
Act 10 of
1859.

21. This Act shall be read with, and taken as part of, Act 10 of 1859. [1]

* * * [2]

† SCHEDULE A. [3]

I, *A. B.*, of, etc., do solemnly declare that I did personally (or by my agent *C. D.*) on the day of tender payment to *E. F.* at his *māl* cutcherry (or at), the place where the rent of the lands at held or cultivated by me under or from the said *E. F.* are usually payable, of the sum of * [4] rupees as and for the whole amount due from me in respect of the rent of the said lands from the month of to the month of both inclusive. I further declare that the said *E. F.* refused to accept the said sum so tendered (or to give me a receipt in full forthwith for the same). And I do declare that

† If this declaration is made by an agent, it must be altered accordingly.

[1] The Bengal Rent Act, 1859. It is printed *ante*, p. 182.

[2] Formal words which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

[3] Sch. A is referred to in s. 5, *ante*, p. 224.

[4] The word "Company's", which was repealed by the Repealing and Amending Act, 1903 (1 of 1903), is omitted.

[Ben. Act 6 of 1862.] THE BENGAL RENT ACT, 1862.

(Schedule B.)

[Ben. Act 8 of 1865.] THE BENGAL RENT RECOVERY (UNDER-TENURES) ACT, 1865.

(Preamble.)

to the best of my belief the sum of * * * [1] rupees so tendered, and which I now desire to pay into Court, is the full amount which I owe the said *E. F.* on account of the rent of the said lands from the month of to the month of , both inclusive, and that I owe the said *E. F.* no further sum on account of the rent of the said lands.

† SCHEDULE B [2].

Court of the Collector (or Deputy Collector) of

Dated the

day of

18

To *E. F.*, of, etc.

With reference to the within declaration you are hereby informed that the sum of * * * [1] rupees therein mentioned is now in deposit in this Court, and that the above sum will be paid to you or to your duly authorized agent on application. And take notice that, if you have any further claim or demand whatsoever to make against the said *A. B.* in respect of the rent of the said lands, you must institute a suit in Court for the establishment of such claim or demand within six calendar months from this date, otherwise your claim will be for ever barred.

† This is to be by endorsement on a copy of the declaration under Schedule A made by the person paying the money into Court.

THE BENGAL RENT RECOVERY (UNDER-TENURES)

ACT, 1865 [3]

(BENGAL ACT 8 OF 1865).

[7th June, 1865.]

An Act to amend the law for the sale of such under-tenures as by the title-deeds or established usage of the country are transferable by sale or otherwise for the recovery of arrears of rent due in respect thereof.

WHEREAS doubts have arisen, in consequence of the repeal of section 16 of Preamble.

[1] The word "Company's", which was repealed by the Repealing and Amending Act, 1908. (1 of 1908), is omitted.

[2] Sch. B. is referred to in s. 5, *ante*, p. 224.

[3] SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), printed in Vol. I. p. 18.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1865, page 287.

Regulation 7 of 1832, [1] as to the authority by whom patni taluks and other saleable under-tenures of the nature defined in clause 1 of section 8 of Regulation 8 of 1819 [2] are to be sold for arrears of rent due to the proprietor on account thereof;

And whereas it is expedient to amend the law for the sale of under-tenures in satisfaction of decrees for the recovery of such arrears;

It is enacted as follows :—

"Collector" defined.

1. The word "Collector," as used in this Act, includes all officers exercising the full powers of a Collector of a district.

* * * * *

2. [*Laws repealed.*] *Rep. by the Repealing Act, 1873 (12 of 1873).*

Sale by whom conducted.

3. The sale for the recovery of arrears of rent of patni taluks and other saleable under-tenures of the nature defined in clause 1 of section 8 of Regulation 8 of 1819 [2] shall be conducted by the Collector of land-revenue in whose jurisdiction, as defined by Act 6 of 1853, [4] the lands lie; and all acts preparatory to, or connected with, the sale of such under-tenures as aforesaid which, by Regulations 8 of 1819 [2] and 1 of 1820 [5] the judge is required to perform, shall be performed by the said Collector.

Publication of notice of sale.

4. Whenever a decree for an arrear of rent, due in respect of an under-tenure saleable under the provisions of section 105 of Act 10 of 1859 [6], shall

LOCAL EXTENT.—This Act contains no local extent clause, but it would appear from section 8 that it was intended to extend to the same territory as the Bengal Patni Taluks Regulation, 1819 (8 of 1819), as to which see foot-note [2] on p. 155, *ante*.

The Act has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), section 2, to be in force in the following Scheduled Districts, namely :—

the Hazaribagh, Ranchi, Palamau and Manbhum Districts, and Pargana Dhalbhum in the Singhbhum District, in the Chota Nagpur Division—see Vol. V, Part V B (b).

The Act is in force in the Sonthal Parganas—see Vol. V, Part V, VI B (c); but its application in the other de-regulationised tracts in Bengal is barred as follows, namely :—

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), s. 3 (2), printed in Vol. I, p. 257, *ante*.

EXTENSION OF APPLICATION.—As to the application of this Act to the sale of tenures or holdings in execution of decrees for arrears of rent under the Chota Nagpur ~~Hundred and Tenment Act (Ben. Act 1 of 1870), and 128 of that Act, *ante*, p. 290.~~

Tenancy

REPRINT.—This Act is reprinted, with notes, in the Sale Law Manual, 1902, pp. 88 to 90.

ORDERS.—For headings of register of under-tenures sold under this Act, see the Register and Return Manual, 1902, page 15.

As to the inspection of work connected with such sales, see the Inspection Manual, 1902, page 15.

[1] Ben. Reg. 7 of 1832 was finally repealed by the Bengal Civil Courts Act, 1871 (6 of 1871).

[2] The Bengal Patni Taluks Regulation, 1819. It is printed *ante*, p. 155.

[3] The number clause, which was repealed by the Repealing and Amending Act, 1903 (1 of 1903), is omitted. See now the Bengal General Clauses Act, 1899 (Ben. Act 1 of 1899), s. 14, in Vol. I, p. 10.

The Rent Recovery Act, 1858. It is printed *ante*, p. 174.

The Bengal Patni Taluks Regulation, 1820. It is printed *ante*, p. 172.

The Bengal Rent Act, 1860. It is printed *ante*, p. 182.

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of 1865.]

(UNDER TENURES) ACT, 1865.

(Secs. 5-9.)

have been obtained, and an application for the sale of the said under-tenure under the same section shall have been made and allowed, the Collector in whose Court the decree is in course of execution shall thereupon cause to be hung up in his own Court and in that of the Collector and the Judge of the district within which the land comprised in the under-tenure to be sold is situated, and to be affixed on some conspicuous place on the land and in the town or village in or nearest to which the said land is situated, a notice for the sale of the said under-tenure on some fixed date not less than twenty days from the hanging up of the said notice in the Court in which the decree is in course of execution.

5. The said notice shall specify, in the words used in the plaint in the suit in which the decree was made, the name of the village, estate and pargana, or other local division, in which the land comprised in the said under-tenure is situated, the yearly rent payable under the said under-tenure, and the gross amount recoverable under the said decree.

Contents
of notice
of sale.

6. If the sum due under the decree, together with interest to date of payment and all costs of process, be paid into Court at any time before the sale commences, whether by the defaulting holder of the under-tenure or any one on his behalf, or any one interested in the protection of the under-tenure, such sale shall not take place; and the provisions of section 13 of Regulation 8 of 1819,[1] for the recovery of sums paid by other than the defaulting holder of the under-tenure to stay the sale of the under-tenure, shall be applicable to all similar payments made under this section.

How sale
may be
stopped.

7. The under-tenure shall be sold to the highest bidder in open Court.

Sale to
highest
bidder.

8. The party who shall be declared to be the purchaser shall be required to deposit immediately, in cash or Government currency-notes, twenty-five *per cent.* of the amount of his bid; and, in default of such deposit, the under-tenure shall be put up again and sold forthwith, or on the next ensuing office-day.

Deposit by
purchaser.

9. The full amount of the purchase-money shall be made good by the purchaser before sunset of the eighth day from that on which the sale of the under-tenure took place, reckoning that day as one of the eight; or, if the eighth day be a Sunday or other close holiday, then on the first office-day after the eighth day: and, in default of payment within the prescribed period as aforesaid, the deposit shall be forfeited to the Government, and the under-tenure shall be re-sold, and the defaulting purchaser shall forfeit all claims

Deposit for-
feited if
balance of
purchase-
money not
paid up.

[1] The Bengal Patni Taluks Regulation, 1819. It is printed *ante*, p. 155.

thereto or to any part of the sum for which the said under-tenure may be subsequently sold.

If the proceeds of the sale which may be eventually completed be less than the price bid by the defaulting purchaser, the difference shall be leviable from him under the law for enforcing the payment of money in satisfaction of a decree for arrears of rent.

Provisions as to sales to apply to re-sales.

10. The provisions of all the sections of this Act with regard to sales shall also be applicable to all re-sales under this Act which may be rendered necessary by the default of any purchaser.

Certificate and possession to be given to purchaser on payment in full.

11. When the purchase-money shall have been paid in full, the officer holding the sale shall give the purchaser a certificate in the form prescribed in the schedule annexed to this Act; and shall further, on the purchaser making application and depositing the requisite costs, depute an officer or amin to put him in possession of the under-tenure in the customary manner, and to publish the fact of the purchase to the cultivators of the lands comprised therein.

Proceeds of sale how dealt with.

12. From the proceeds of the sale of the under-tenure the officer holding such sale shall repay to the judgment-creditor the necessary expenses incurred by him in procuring it; and, after satisfying the decree in execution of which the sale was made, shall hold the residue, if any, in deposit on account of the defaulting holder of the under-tenure.

Appeal.

13. An appeal shall lie to the Collector from any proceedings of a Deputy or Assistant Collector, if made within fifteen days; and to the Commissioner from any original proceedings of a Collector under this Act if made within thirty days from the date of the sale: but no proceedings under this Act shall be reversed or modified in appeal, except upon the ground of irrelevancy of the law, or of such an irregularity in procedure as, in the opinion of the appellate authority, has caused injury to the interests of one of the parties to the suit in which the decree was passed.

Power of revision.

14. No appeal as of right shall lie from any order passed in appeal under this Act; but a Commissioner in any case in which an appeal has been heard by a Collector, and the Board of Revenue in any case in which an appeal has been heard by the Commissioner, may call for the record at any time within three months from the date of the order passed in appeal, and pass thereon such orders as they may think proper.

Recovery by purchaser of purchase-money if sale set aside.

15. If any sale of an under-tenure shall, under either of the two preceding sections, be set aside, the purchaser shall be entitled to receive back the purchase-money with or without interest, and in such manner as the appellate or revising authority may in each instance direct.

of 1865.]

(UNDER TENURES) ACT, 1865.

(Secs. 16, 17.—Schedule.)

Any order for the recovery of the purchase-money or interest, passed by such appellate or revising authority as aforesaid, may be enforced by the process in force under decrees for the recovery of arrears of rent.

16. The purchaser of an under-tenure sold under this Act shall acquire it free from all incumbrances which may have accrued thereon by any act of any holder of the said under-tenure, his representatives or assignees, unless the right of making such incumbrances shall have been expressly vested in the holder by the written engagement under which the under-tenure was created or by the subsequent written authority of the person who created it, his representatives or assignees :

Purchaser to acquire the under-tenure with certain exceptions, free of incumbrances.

Provided that nothing herein contained shall be held to entitle the purchaser to eject khudkast raiyats or resident and hereditary cultivators, nor to cancel *bond fide* engagements made with such class of raiyats or cultivators aforesaid by the late incumbent of the under-tenure or his representatives except it be proved, in a regular suit, to be brought by such purchaser for the adjustment of his rent that a higher rent would have been demandable at the time such engagements were contracted by his predecessor.

Nothing in this section shall be held to apply to the purchase of a tenure by the previous holder thereof, through whose default the tenure was brought to sale.

17. The purchaser of an under-tenure sold under this Act shall apply to the zamindar or other landholder, within fifteen days from the day of sale, to have his name registered in the zamindar or other landholder's books as the purchaser ; and shall execute a kabuliyat on the same terms and conditions on which the under-tenure was held by the defaulter ; and, if such application be not made within fifteen days, it shall be lawful for the zamindar or other landholder to sue the said purchaser under the provisions of clause 1 of section 23 of Act 10 of 1859. [1]

Zamindar how to proceed if purchaser does not register.

18. [Indemnity.] *Rep. by the Repealing Act, 1873 (12 of 1873).*

SCHEDULE.

(referred to in section 11.)

I certify that A. B. has purchased, under Act 8 of 1865, the under-tenure (as specified in the notice of sale), and that his purchase took effect on the day of (being the day after that fixed for the last day of payment).

(Signed)

C. D.

Collector.

THE BENGAL RENT (APPEALS) ACT, 1867. [Ben. Act 4 of 1867.]

(Secs. 1-5.)

THE BENGAL RENT (APPEALS) ACT, 1867 [1]

(BENGAL ACT 4 OF 1867).

[5th June, 1867.]

[Title and preamble.] Rep by the Repealing and Amending Act, 1903 (1 of 1903).

Interpreta-
tion.

1. Words importing the singular number shall include the plural, and words importing the plural number shall include the singular.

2 to 4. [Confirmation of prior orders by Deputy Collectors.] Rep. by the Repealing and Amending Act, 1903 (1 of 1903).

Appellate
jurisdiction
exercisable
by officers
specially ap-
pointed by
Lieutenant-
Governor.

5. [2]* * * It shall be competent to the Lieutenant-Governor of Bengal specially to appoint any fully qualified Revenue-officer to exercise the powers of the Collector of a district for the purpose of enabling him to hear and determine appeals under [3] [the Bengal Rent Act, 1859, or the Bengal Rent Act, 1862.]

10 of 1859.
Ben. Act 6
of 1862.

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[1] SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), printed in Vol. I, p. 18.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1867, page 341.

LOCAL EXTENT.—The original local extent of this Act must (see section 5) be taken to have been the same as that of Act 10 of 1859 and Ben. Act 6 of 1862, as to which see footnote [1] on pp. 182, 222, *ante*. The Act has however been repealed by the Bengal Tenancy Act, 1885 (8 of 1885), s. 2 (1) (printed *post*, p. 253), in the whole of Bengal except "the town of Calcutta, the Division of Orissa and the Scheduled Districts."

As to the extension of this repeal to the Division of Orissa, see s. 2 (2) of the Act of 1885, *post*, p. 253.

The extension of the repeal to Scheduled Districts depends upon the terms of notifications extending the Act of 1885 to such districts. ~~Under the terms of the notification extending the Act of 1885 to the Jalpaiguri District, the repeal has taken effect in that District.~~

The Act has also been repealed in the Chota Nagpur Division (except the District of Manbhum) by the Chota Nagpur Landlord and Tenant Procedure Act (Ben. Act 1 of 1879).

and in the
Manbhum
Dist. by Ben.
Act 9 of 1879

~~The Act has been repealed by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 2, sub-s.~~

The application of the Act in the de-regulationised tracts in Bengal is barred as follows, namely:—

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), section 3 (2), printed in Vol. I, p. 257;

~~in the Chittagong Hill tracts, by the Chittagong Hill tracts Regulation, 1888 (1 of 1888), and~~

in the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation (3 of 1873), section 3 (2), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), section 3, printed in Vol. I, p. 294.

Ben. Act 4 of 1867 appears to be in force now only in the Darjeeling and Manbhum Districts, while such portions of the Act as are not inconsistent with the portions of Act 8 of 1885 which have been extended to the Orissa Division are also in force in that Division.

[2] Formal words which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

[3] These references in s. 5 were substituted for the words "the said recited Acts" by the Repealing and Amending Act, 1903 (1 of 1903). The Bengal Rent Act, 1859, is printed *ante*, p. 182, and the Bengal Rent Act, 1862, is printed *ante*, p. 222.

[Ben. Act 8 of 1879.] THE BENGAL RENT SETTLEMENT ACT, 1879.

(Sec. 1.)

and such persons so specially appointed shall have and exercise all such and the same powers in regard to the hearing of such appeals as the Collector of the district, within which such person shall be so appointed, might have and exercise.

Ref. in the Ch
Nagpur Division
Ben. Act 6 of 1890

THE BENGAL RENT SETTLEMENT ACT, 1879^[1]
(BENGAL ACT 8 OF 1879).

[4th June, 1879.]

An Act to define and limit the powers of Settlement-officers.

WHEREAS it is expedient to define and limit the powers of Settlement-officers; It is enacted as follows:—

1. This Act extends to all the territories under the administration of the Lieutenant-Governor of Bengal.

[1] SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), printed in Vol. I, p. 18.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, *see* Calcutta Gazette, 1879, Pt. IV, p. 46; for Report of Select Committee, *see* *ibid*, p. 55, and for Proceedings in Council, *see* *ibid*, Supplement, 1879, pp. 326, 393, 435.

LOCAL EXTENT.—This Act extended originally to the whole of Bengal (*see* section 1), and it applies to all settlement proceedings under the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), which were confirmed after the commencement of Ben. Act 8 of 1878 or which were or are confirmed or sanctioned by the Revenue-authorities duly empowered (*see* section 14).

The Act has been repealed by the Bengal Tenancy Act, 1885 (8 of 1885), s. 2 (1) (printed *post*, p. 253), in the whole of Bengal except "the town of Calcutta, the Division of Orissa and the Scheduled Districts."

As to the extension of this repeal to the Division of Orissa, *see* s. 2 (2) of the Act of 1885, *post*, p. 253.

The extension of the repeal to Scheduled Districts depends upon the terms of the notifications extending the Act of 1885 to such Districts.

The Act has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the following Scheduled Districts, namely:—

the Hazaribagh, Ranchi, Palamu and Manbhum Districts, and Pargana Dhalbhum and the Kolhan in the Singhbhum District, in the Chota Nagpur Division—*see* Vol. V, Part V B (b).

The application of the Act in the unregulationised tracts in Bengal is barred as follows, namely:—

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), section 3 (2), printed in Vol. I, p. 257;

in the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation (8 of 1872), section 3 (2), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), section 8, printed in Vol. I, p. 294.

RULES AND ORDERS.—For rules under section 5, *see* the Bengal Local Statutory Rules and Orders, 1903, Vol. II, p. 244.

For orders by the Board of Revenue as to settlements under this Act, *see* the Survey and Settlement Manual, 1900, p. 103.

THE BENGAL RENT SETTLEMENT ACT, 1879. [Ben. Act 8

(Secs. 3-6.)

[Commencement.] *Rep. by the Repealing and Amending Act, 1903 (1 of 1903).*

2. [Repeal of Ben. Act 3 of 1878.] *Rep. by the Repealing and Amending Act, 1903 (1 of 1903).*

Interpreta-
tion.
"Settlement-
officer."

3. In this Act—

"settlement-officer" means the Collector or any officer in charge of the revenue jurisdiction of a district, and includes any Assistant Commissioner, Deputy Collector or Sub-Deputy Collector whom the Collector or other officer as aforesaid may authorize to conduct the inquiries and proceedings connected with any settlement of land-revenue, and any officer who may be appointed by the Lieutenant-Governor to make any such settlement:

Under-tenant.

"under-tenant" means any holder of a heritable and transferable intermediate tenure between the Government and the raiyat other than a zamindar.

Settlement-
proceedings
not affected
by certain
enactments.

4. Nothing contained in section 51 of Regulation 8 of 1793 [1] or in sections 13, 14 and 17 of Act 10 of 1859, [2] * * * [3] shall affect any settlement-proceedings under Regulation 7 of 1822, [4] or under any other law for the time being in force for the regulation of settlements of land-revenue.

Rent to be in
accordance
with rates
sanctioned by
the Revenue-
authorities.

5. In any such settlement-proceedings the rent recorded as demandable from each raiyat shall, except as herein otherwise provided, be in accordance with the general rates sanctioned or subsequently approved for adoption in such settlement by the Revenue-authorities from time to time empowered in that behalf by the Lieutenant-Governor.

Grounds of
enhancement.

6. The Settlement-officer may, on some one or other of the following grounds and not otherwise, record a higher rent as demandable from any raiyat having a right of occupancy than the rent which was previously paid by him, namely:—

(i) that the higher rent so recorded is calculated on rates which are not above the prevailing rates payable by the same class of raiyats for land of a similar description and with similar advantages in the surrounding neighbourhood;

(ii) that the enhancement is not greater than is justified by the increase which has taken place in the productive powers of the land otherwise

[1] The Bengal Decennial Settlement Regulation, 1793. It is printed *post*, under the head "Land-revenue."

[2] The Bengal Rent Act, 1859. It is printed *ante*, p. 182.

[3] The words and figures "or in sections 14, 15 and 16 of Bengal Act 8 of 1869", which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

[4] The Bengal Land-revenue Settlement Regulation, 1822. It is printed *post*, under the head "Land-revenue."

of 1879.] THE BENGAL RENT SETTLEMENT ACT, 1879.

(Sec. 7.)

- than by the agency, or at the expense, of the raiyat since the rent of the raiyat was last fixed ;
- (iii) that the value of the produce of the land has been increased otherwise than by the agency, or at the expense, of the raiyat since the rent of the raiyat was last fixed ; and that such higher rent does not bear a higher proportion to the rent of such raiyat as last fixed than the normal price of produce at or about the time of the present settlement bears to the normal price of similar produce which prevailed at or about the time when such rent was last fixed ;
- (iv) that the value of the produce of the land has been increased otherwise than by the agency, or at the expense, of the raiyat since the last previous settlement of the lands was made ; and that such higher rent does not bear a higher proportion to that which would have been the rent of lands of a similar description and the same area according to the rates of such previous settlement, than the normal price of produce at or about the time of the present settlement bears to the normal price of similar produce which prevailed at or about the time of such previous settlement, as recorded in the papers of such settlement, or as otherwise ascertained and certified by the Settlement-officer ;
- (v) that the quantity of land held by the raiyat has been proved by measurement to be greater than the quantity for which rent has been previously paid by him.

7. The rent recorded as demandable from an under-tenant shall be determined in accordance with the following rules :—

- (a) Whenever the Settlement-officer shall find any person holding as an under-tenant, he shall first ascertain and record whether the tenure so held is binding as against the Government.
- (b) If the Settlement-officer finds the tenure to be so binding, the rent recorded as demandable from such under-tenant shall in no case be higher than an amount which shall be ten *per cent.* below the aggregate of the rents recorded as payable to him from the subordinate under-tenants and raiyats whose holdings fall within his tenure.
- (c) If the Settlement-officer shall find that the tenure is not binding as against the Government, he shall first determine the proportionate amount of the demand of land-revenue to be assessed upon the lands included in the tenure in accordance with any orders of Government

Rules for determining rent recorded as demandable.

THE BENGAL RENT SETTLEMENT ACT, 1879. [Ben. Act 8 of 1879.]
(Secs. 8-10.)

for the time being in force regulating the demand of land-revenue, and shall record the rent payable by such under-tenant at such a sum (not being less than such proportionate amount of land-revenue or more than the aggregate of the rents recorded as payable to him from the subordinate under-tenants and raiyats whose holdings fall within his tenure) as may seem fair and equitable with reference to the character and circumstances of the tenure.

Procedure when rent demandable is recorded below that to which it might have been enhanced.

8. When the rent demandable from any under-tenant or raiyat is recorded at an amount below that to which the rent of such under-tenant or raiyat might have been enhanced under this Act, it may be recorded that such under-tenant or raiyat shall from time to time be liable to pay increased rent from such dates as may be fixed by the Settlement-officer, until the rent paid by him reaches the amount which the Settlement-officer may determine to be properly payable by him under this Act.

Service of notice of enhancement.

9. Whenever a higher rent has been recorded as demandable from any under-tenant or raiyat than the rent previously paid by him, the Settlement-officer shall cause to be published a copy of the jamabundi or extracts therefrom, specifying in respect of each such under-tenant or raiyat the rent recorded as payable by him, and in the case of a raiyat, the clause or clauses of section 6 of this Act under which his rent is enhanced.

Such publication may be lawfully made by affixing a copy of the jamabundi or of such extracts therefrom as the Collector may think fit, at the mál cutcherry of the village to which the jamabundi relates, or at some other conspicuous place therein, and by proclamation by beat of drum in the said village to the effect that the said copy or extracts have been so affixed, and that the jamabundi can be inspected at the office of the Settlement-officer.

Suit to contest rents.

10. Every under-tenant and raiyat shall be liable to pay the rent recorded as demandable from him under this Act, unless it shall be proved in any suit instituted by such under-tenant or raiyat to contest his liability to pay the same that such rent has not been assessed in accordance with the provisions of this Act.

But nothing in clause (c) of section 7 of this Act or in this section shall be held to limit the discretion of the Court in determining in any suit under this section the rent of an under-tenant of the class described in the said clause (c).

No suit under this section shall be instituted otherwise than within four months after the publication of the jamabundi or extracts as aforesaid, in

[Ben. Act. 8 of 1879.] THE BENGAL RENT SETTLEMENT ACT, 1879.

(Secs. 11-14.)

[Act 8 of 1885.] THE BENGAL TENANCY ACT, 1885.

the village in which the lands which are the subject of the suit or any part thereof are situated.

11. In all suits instituted to contest the rent recorded as demandable under this Act the Court shall, if it modifies or sets aside such rent, proceed to determine the rent payable by the plaintiff in accordance with this Act, and, if any arrears of rent at the rates determined by the Court are found to be due, shall make a decree in favour of the defendant for such arrears, with such costs as may seem proper.

Procedure in suits to contest rent recorded as demandable.

12. If publication of the copy of a jamabundi or of extracts therefrom as provided in section 9 of this Act is made within the first six months of the year of the era current in the district, the enhancement may take effect from the beginning of the year in which such publication may have been made; otherwise it shall take effect from the beginning of the next following year.

Enhancement when to take effect.

13. Rent recorded as demandable under this Act, or fixed by a final decree in any suit as aforesaid, shall not be liable to enhancement until ten years shall have elapsed from the date on which the settlement took effect, or until the period of the settlement shall have expired, whichever may first occur.

Rent to hold good for ten years or until expiration of settlement.

14. The provisions of this Act shall apply to all settlement-proceedings under Regulation 7 of 1822^[1] which may have been confirmed after the commencement of Bengal Act 3 of 1878^[2] or which may hereafter be confirmed or sanctioned by the Revenue-authorities from time to time empowered in that behalf by the Lieutenant-Governor, whether such proceedings shall have been commenced before or after the commencement of the said Act.

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(ACT 8 OF 1885).

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[2] Ben. Act 3 of 1878 was repealed by s. 2 of this Act, noted *ante*, p. 238.

LANDLORD AND TENANT.
THE BENGAL TENANCY ACT, 1885.

[Act 8]

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LANDLORD AND TENANT.

251

THE BENGAL TENANCY ACT, 1885.

(Preamble.)

— See reprint in Supplement.

THE BENGAL TENANCY ACT, 1885

(ACT 8 of 1885). [1]

[14th March, 1885.]

An Act to amend and consolidate certain enactments relating to the Law of Landlord and Tenant within the territories under the administration of the Lieutenant-Governor of Bengal.

WHEREAS it is expedient to amend and consolidate certain enactments relating to the Law of Landlord and Tenant within the territories under the

[1] LEGISLATIVE PAPERS.

(1) For Statement of Objects and Reasons, see Gazette of India, 1883, Pt. V, page 129; for Report of Select Committee, see *ibid* 1884, Pt. V, page 25; and for Proceedings in Council, see *ibid* Supplement, 1883, pages 283, 331, 385, 996, 1519 and 2303; Supplement, 1884, pages 633 and 1405; Supplement, 1885, pages 269, 639, 743 and 776.

LOCAL EXTENT.

(2) This Act [except section 31 (A)] extends to the whole of Bengal except the town of Calcutta, the Division of Orissa, and the Scheduled Districts—see section 1 (3).

(3) The Act has never been extended to the town of Calcutta.

(4) Power to extend it to Orissa is given by section 1 (3); and under that power sections 3 to 5, 7, 19 to 49, 52 to 75, 80, 101 to 115 (Chapter X) and 189 to 192 have been so extended—see Appendix A, *post*, p. 337.

(5) The Act has, with certain exceptions, restrictions and modifications, been extended, by notification under the Scheduled Districts Act, 1874 (14 of 1874), ss. 5 and 5A, to the Jalpaiguri District—see Vol. V, Part V B (a).

(6) Portions of Chapters I, II, X, XIII, and XVII have, with certain restrictions and modifications, been extended, by notification under the same sections, to the Chota Nagpur Division, except the district of Manbhum—see Vol. V, Part V B (b).

(7) Section 31A(1) applies only to districts or parts of districts to which it is extended by the Local Government by notification in the Calcutta Gazette. It has been so extended to the district of Tippera and Government Estate Taurir Parhia in the district of Monghyr—see Appendix B, printed *post*, p. 338.

(8) Sections 56, 58 (1) and (3), and 84 are in force in the Sonthal Parganas—see Vol. V, Part V B (c); but the rest of the Act is barred there by the Sonthal Parganas Settlement Regulation, (3 of 1872), s. 3 (2), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s. 3, printed in Vol. I, p. 294.

The application of the Act in the other de-regulationised tracts in Bengal is barred as follows, namely:—

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), s. 3 (2), printed in Vol. I, p. 257, ~~and~~

(9) The areas in which no part of the Act is in force are the town of Calcutta, the Angul, Darjeeling and Manbhum districts, ~~and the Chittagong Hill tracts~~—see the Survey and Settlement Manual, 1900, page 71.

(10) In the Orissa Division, the Hazaribagh, Palaman, Ranchi and Singhbhum districts of the Chota Nagpur Division and the Sonthal Parganas, only the portions respectively noted in clauses (4), (6), (8), *ante*, are in force.

COMMENCEMENT.

(11) Act 8 of 1885 was declared to come into force on the 1st November, 1885, by a notification dated the 4th September, 1885—see Calcutta Gazette, 9th *idem*, Part I, page 874. That notification was, however, modified as to the commencement of ss. 61 to 64 and Chapter XII by Act 20 of 1885, s. 1, which enacted that these portions of the Act should come into force on such date, not later than the 1st day of February, 1886, as the Local Government might appoint, or

administration of the Lieutenant-Governor of Bengal; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title.

1. (1) This Act may be called the Bengal Tenancy Act, 1885.

if no such date was appointed, then on the 1st February, 1886. (No such date was appointed). Act 20 of 1885 was repealed by the Repealing and Amending Act, 1891 (12 of 1891).

(12) The Amending Act of 1898 (Ben. Act 3 of 1898) came into force on the 2nd November, 1898—see its first section and the Calcutta Gazette of the same date, Pt. III, page 19.

REPRINTS.

(13) This Act has been reprinted (by the Legislative Department of the Government of Bengal) as modified by subsequent legislation up to the 1st December, 1903.

(14) Sections 98 to 100 are reprinted, with notes, in the Wards' Manual, 1897, pp. 181 to 184.

RULES AND ORDERS.

(15) For rules made by the Local Government under this Act, and Board of Revenue's Instructions thereon, see the Bengal Tenancy Rules, 1898.

(16) For rules made by the Local Government under the Act for the Chota Nagpur Division, see the Chota Nagpur Tenancy Rules, 1904.

(17) For rules as to Rent Money-orders, see the Board's Rules, 1902, pages 139 to 148.

(18) For rules made by the High Court—

as to the prompt trial of suits for arrears of rent, see the High Court's Rules, 1903 Civil, Vol. I, p. 55;

as to the execution of decrees in rent suits, see *ibid*, p. 57;

under s. 100, defining the duties and powers of Managers, see *ibid*, p. 61;

under s. 142, regulating the procedure in cases of distraint, see *ibid*, p. 62.

(19) For list of registers prescribed by Executive Authority for use under this Act, and headings of such registers, see the Register and Return Manual, 1902, pages 29 to 32.

(20) For orders as to the preparation, by Commissioners of Divisions, of annual reports on the working of this Act, see *ibid*, pages 44, 45.

(21) As to the inspection of work connected with notices of transfer under ss. 12, 13, 14, 15 or 18 (a), see the Inspection Manual, 1902, p. 21.

(22) As to surveys and settlements under this Act and other laws, see the Survey and Settlement Manual, 1900.

(23) For two notifications under section 3, clause (16), investing officers in charge of subdivisions with powers of a Collector for certain purposes, see the Bengal Local Statutory Rules and Orders, 1903, Vol. II, p. 247. For two other similar notifications, see Notification dated 28th May, 1896, in Calcutta Gazette, 1896, Pt. I, p. 652, and Notification dated the 4th April, 1893, in Calcutta Gazette, 1893, Pt. I, p. 274.

(24) For two notifications under section 3, clause (17), authorizing Deputy Collectors to discharge certain functions of Revenue-officers, see the Bengal Local Statutory Rules and Orders, 1903, Vol. II, pp. 245 and 246.

Modified forms of receipt have been prescribed under section 56 (3),—

for certain areas in the Rajshahi district—see Notification dated 30th January, 1888, in Calcutta Gazette, 1888, Pt. I, p. 23;

for the Western Duars of the Jalpaiguri district—see Notification No. 872, dated the 27th October, 1899, in the Bengal Local Statutory Rules and Orders, 1903, Vol. II, p. 249;

for the Orissa Division—see Notification No. 2409, dated the 18th October, 1902, in Calcutta Gazette, 1902, Pt. I, p. 1404;

for the Sonthal Parganas—see Notification No. 1339, dated the 1st March, 1904, in Calcutta Gazette, 1904, Pt. I, p. 347; and

in the case of rent paid by money-order—see Calcutta Gazette, 1899, Pt. I, p. 650; *ibid*, 1890, Pt. I, p. 458.

(25) A modified form of account for use in the Orissa Division was prescribed under section 57(2) by Notification No. 377, dated the 22nd January, 1894—see the Bengal Local Statutory Rules and Orders, 1903, Vol. II, p. 250.

Generally see
Resolution (Revenue
Offt. Land Revenue)
12th July 1889.

of 1885.]

THE BENGAL TENANCY ACT, 1895.

(Chapter I.—Preliminary.—Secs. 2, 3.)

(2) It shall come into force on such date [1] (hereinafter called the com- Commence-
mencement of this Act) as the Local Government, with the previous sanction ment.
of the Governor General in Council, may, by notification in the local official
Gazette, appoint in this behalf.

14 of 1874.

(3) It shall extend by its own operation to all the territories for the time Local extent.
being under the administration of the Lieutenant-Governor of Bengal, except
the town of Calcutta, the Division of Orissa, and the Scheduled Districts [2]
specified in the third Part of the First Schedule of the Scheduled Districts
Act, 1874 [3]; and the Local Government may, with the previous sanction of
the Governor General in Council, by notification in the local official Gazette,
extend the whole or any portion of this Act to the Division of Orissa [4] or any
part thereof.

2. (1) The enactments specified in Schedule I hereto annexed are repealed Repeal.
in the territories to which this Act extends by its own operation.

(2) When this Act is extended to the Division of Orissa or any part thereof,
such of those enactments as are in force in that Division or part, or, where a
portion only of this Act is so extended, so much of them as is inconsistent
with that portion, shall be repealed in that Division or part.

(3) Any enactment or document referring to any enactment hereby
repealed shall be construed to refer to this Act or to the corresponding portion
thereof.

(4) The repeal of any enactment by this Act shall not revive any right,
privilege, matter or thing not in force or existing at the commencement of this
Act.

3. In this Act, unless there is something repugnant in the subject or Definitions.
context,—

(1) "estate" means land included under one entry in any of the general
registers of revenue-paying lands and revenue-free lands, prepared and
maintained under the law for the time being in force by the Collector of a
district, and includes Government khas mahals and revenue-free lands not
entered in any register;

[1] See para. (11) of footnote on p. 251, ante.

[2] For scheduled districts to which the Act has been extended, see paras. (5) and (6) of
footnote on p. 251, ante.

[3] Printed, General Acts, 1867-6, Ed. 1898, p. 472.

[4] As to the portions of the Act which have been extended to the Division of Orissa, see
para. (4) of footnote on p. 251, ante.

(2) "proprietor" means a person owning, whether in trust or for his own benefit, an estate or a part of an estate;

(3) "tenant" means a person who holds land under another person, and is, or but for a special contract would be, liable to pay rent for that land to that person;

(4) "landlord" means a person immediately under whom a tenant holds, and includes the Government;

(5) "rent" means whatever is lawfully payable or deliverable in money or kind by a tenant to his landlord on account of the use or occupation of the land held by the tenant:

in sections 53 to 68, both inclusive, sections 72 to 75, both inclusive, Chapter XII and Schedule III of this Act, "rent" includes also money recoverable under any enactment for the time being in force as if it was rent;

(6) "pay", "payable" and "payment", used with reference to rent include "deliver", "deliverable" and "delivery";

(7) "tenure" means the interest of a tenure-holder or an under-tenure holder;

(8) "permanent tenure" means a tenure which is heritable and which is not held for a limited time;

(9) "holding" means a parcel or parcels of land held by a raiyat and forming the subject of a separate tenancy;

(10) "village" means an area included in a village map of the revenue-survey within the same exterior boundary, or, where no such maps have been prepared such area as any officer appointed by the Local Government in this behalf may determine after local inquiry held on such notice as the Local Government consider sufficient for giving information to all persons interested;

(11) "agricultural year" means, where the Bengali year prevails, the year commencing on the first day of Baisakh [1], where the Fasli or Amlî year prevails, the year commencing on the first day of Asin, [2] and where any other year prevails for agricultural purposes, that year;

(12) "Permanent Settlement" means the Permanent Settlement of Bengal, Bihâr and Orissa, made in the year 1793;

(13) "succession" includes both intestate and testamentary succession;

(14) "signed" includes "marked" when the person making the mark is unable to write his name; it also includes, "stamped" with the name of the person referred to;

[1] The month of Baisakh corresponds with the last part of April and the first part of May.

[2] The month of Asin corresponds with the last part of September and the first part of October.

of 1885.]

THE BENGAL RENT ACT, 1885.

(Chapter II.—Classes of Tenants.—Secs. 4, 5.)

(15) "prescribed" means prescribed from time to time by the Local Government by notification in the official Gazette ;

[1] (16) "Collector" means the Collector of a district or any other officer appointed by the Local Government to discharge any of the functions of a Collector under this Act ;

[1] (17) "Revenue-officer", in any provision of this Act, includes any officer whom the Local Government may appoint by name or by virtue of his office to discharge any of the functions of a Revenue-officer under that provision ;

(18) "registered" means registered under any Act [1] for the time being in force for the registration of documents. [3]

CHAPTER II.

CLASSES OF TENANTS.

4. There shall be, for the purpose of this Act, the following classes of tenants, (namely) :— Classes of tenants.

(1) tenure-holders, including under-tenure-holders,

(2) raiyats, and

(3) under-raiyats, that is to say, tenants holding, whether immediately or mediately, under raiya

and the following classes of raiyats (namely):—

(a) raiyats holding at fixed rates, which expression means raiyats holding either at a rent fixed in perpetuity or at a rate of rent fixed in perpetuity,

(b) occupancy-raiyats, that is to say, raiyats having a right of occupancy in the land held by them, and

(c) non-occupancy-raiyats, that is to say, raiyats not having such a right of occupancy.

5. (1) "Tenure-holder" means primarily a person who has acquired from a proprietor or from another tenure-holder a right to hold land for the purpose Meaning of "tenure-holder" and "raiya."

[1] For references to notifications under clauses (16) and (17) of s. 3, see paras. (22) and (24) of footnote on p. 252, *ante*.

[2] See the Indian Registration Act, 1877 (3 of 1877), in General Acts, 1877-81, Ed. 1898, p. 41.

[3] Further definitions are given in the following sections, namely :—

s. 5 ("tenure-holder" and "raiya") ;

s. 76 ("improvement") ;

s. 160 ("protected interests") ;

s. 161 ("incumbrance" and "registered and notified incumbrance").

of collecting rents or bringing it under cultivation by establishing tenants on it, and includes also the successors in interest of persons who have acquired such a right.

(2) "Raiyat" means primarily a person who has acquired a right to hold land for the purpose of cultivating it by himself, or by members of his family or by hired servants, or with the aid of partners, and includes also the successors in interest of persons who have acquired such a right.

Explanation.—Where a tenant of land has the right to bring it under cultivation, he shall be deemed to have acquired a right to hold it for the purpose of cultivation, notwithstanding that he uses it for the purpose of gathering the produce of it or of grazing cattle on it.

(3) A person shall not be deemed to be a raiyat unless he holds land either immediately under a proprietor or immediately under a tenure-holder.

(4) In determining whether a tenant is a tenure-holder or a raiyat, the Court shall have regard to—

(a) local custom; and

(b) the purpose for which the right of tenancy was originally acquired.

(5) Where the area held by a tenant exceeds one hundred standard bighas, the tenant shall be presumed to be a tenure-holder until the contrary is shown.

CHAPTER III.

TENURE-HOLDERS.

Enhancement of rent.

Enhancement of rent.

Tenure held since Permanent Settlement liable to enhancement only in certain

6. Where a tenure has been held from the time of the Permanent Settlement, its rent shall not be liable to enhancement except on proof—

(a) that the landlord under whom it is held is entitled to enhance the rent thereof either by local custom or by the conditions under which the tenure is held, or

(b) that the tenure-holder, by receiving reductions of his rent, otherwise than on account of a diminution of the area of the tenure, has subjected himself to the payment of the increase demanded, and that the lands are capable of affording it.

7. (1) Where the rent of a tenure-holder is liable to enhancement, it may, subject to any contract between the parties, be enhanced up to the limit of the customary rate payable by persons holding similar tenures in the vicinity.

Limits of enhancement of rent of tenures.

of 1885.]

THE BENGAL TENANCY ACT, 1885.

(Chapter III.—Tenure-holders.—Secs. 8-11.)

(2) Where no such customary rate exists, it may, subject as aforesaid, be enhanced up to such limit as the Court thinks fair and equitable.

(3) In determining what is fair and equitable, the Court shall not leave to the tenure-holder as profit less than 10 *per centum* of the balance which remains after deducting from the gross rents payable to him the expenses of collecting them and shall have regard

(a) the circumstances under which the tenure was created, for instance, whether the land comprised in the tenure, or a great portion of it, was first brought under cultivation by the agency or at the expense of the tenure-holder or his predecessors in interest, whether any fine or premium was paid on the creation of the tenure, and whether the tenure was originally created at a specially low rent for the purpose of reclamation ; and

(b) the improvements, if any, made by the tenure-holder or his predecessors in interest.

(4) If the tenure-holder himself occupies any portion of the land included in the area of his tenure, or has made a grant of any portion of the land either rent-free or at a beneficial rent, a fair and equitable rent shall be calculated for that portion and included in the gross rents aforesaid.

8. The Court may, if it thinks that an immediate increase of rent would produce hardship, direct that the enhancement shall be gradual ; that is to say, that the rent shall increase yearly by degrees, for any number of years not exceeding five, until the limit of the enhancement allowed has been reached.

Power to order gradual enhancement.

9. When the rent of a tenure-holder has been enhanced by the Court or by contract, it shall not be again enhanced by the Court during the fifteen years next following the date on which it has been so enhanced.

Rent once enhanced may not be altered for fifteen years.

Other incidents of tenures.

10. A holder of a permanent tenure shall not be ejected by his landlord except on the ground that he has broken a condition on breach of which he is, under the terms of a contract between him and his landlord, liable to be ejected :

Other incidents of tenures.

Permanent tenure-holder not liable to ejectment.

Provided that where the contract is made after the commencement of this Act, the condition is consistent with the provisions of this Act.

11. Every permanent tenure shall, subject to the provisions of this Act, be capable of being transferred and bequeathed in the same manner and to the same extent as other immoveable property.

Transfer and transmission of permanent tenure.

Voluntary
transfer of
permanent
tenure.

[1] 12. (1) A transfer of a permanent tenure by sale, gift or mortgage (other than a transfer by a sale in execution of a decree or by summary sale under any law relating to patni or other tenures) can be made only by a registered instrument.

(2) A registering officer shall not register any instrument purporting or operating to transfer by sale, gift or [2] [usufructuary] mortgage a permanent tenure unless there is paid to him, in addition to any fees payable under the Act for the time being in force for the registration of documents, a process-fee of the prescribed amount and a fee (hereinafter called "the landlord's fee") of the following amount, namely:—

(a) when rent is payable in respect of the tenure, a fee of two *per centum* on the annual rent of the tenure: provided that no such fee shall be less than one rupee or more than one hundred rupees; and

(b) when rent is not payable in respect of the tenure, a fee of two rupees.

(3) When the registration of any such instrument is complete, the registering officer shall send to the Collector the landlord's fee and a notice of the transfer and registration in the prescribed form, and the Collector shall cause the fee to be paid to, and the notice to be served on, the landlord in the prescribed manner.

Transfer of
permanent
tenure by sale
in execution
of decree other
than decree
for rent.

[1] 13. (1) When a permanent tenure is sold in execution of a decree other than a decree for arrears of rent due in respect thereof, [3] [or when a mortgage of a permanent tenure, other than usufructuary mortgage thereof, is foreclosed,] the Court shall, before confirming the sale under section 312 of the Code of Civil Procedure, [4] [or making a decree or order absolute for the foreclosure,] require the purchaser [5] [or mortgagee] to pay into Court the landlord's fee prescribed by the last foregoing section and such further fee for service of notice of the sale [6] [or final foreclosure] on the landlord as may be prescribed.

(2) When the sale has been confirmed, [7] [or the decree or order absolute for the foreclosure has been made], the Court shall send to the Collector the

[1] As to the validation of certain transfers made under section 12, 13, 17 or 18, see the Bengal Tenancy (Validation and Amendment) Act, 1903 (Ben. Act 1 of 1903), s. 1, *post*, p. 343; and as to payment of fees under those sections, see *ibid*, s. 2, *ibid*, p. 343.

As to the inspection of work connected with notices of transfer under section 12, 13, 14, 15 or 18(a), see the Inspection Manual, 1902, p. 21.

[2] The word "usufructuary" in s. 12 (2) was inserted by the Bengal Tenancy (Amendment) Act, 1886 (8 of 1886), s. 1, *post*, p. 339.

[3] These words in square brackets in s. 13 were inserted by the same Act, s. 2 (1), *post*, p. 339.

[4] These words in square brackets in s. 13 were inserted by the same Act, s. 2 (2), *post*, p. 339.

[5] These words in square brackets in s. 13 were inserted by the same Act, s. 2 (3), *post*, p. 339.

[6] These words in square brackets in s. 13 were inserted by the same Act, s. 2 (4), *post*, p. 339.

[7] These words in square brackets in s. 13 were inserted by the same Act, s. 2 (5), *post*, p. 339.

of 1885.]

THE BENGAL TENANCY ACT, 1885.

(Chapter III.—Tenure-holders.—Chapter IV.—Raiyats holding at fixed rates.—Secs. 14-18.)

landlord's fee and a notice of the sale [1] [or final foreclosure] in the prescribed form, and the Collector shall cause the fee to be paid to, and the notice to be served on, the landlord in the prescribed manner.

[2] 14. When a permanent tenure is transferred by sale in execution of a decree for arrears of rent due in respect thereof, the Court shall send to the Collector a notice of the sale in the prescribed form.

Transfer of permanent tenure by sale in execution of decree for rent. Succession to permanent tenure.

[2] 15. When a succession to a permanent tenure takes place, the person succeeding shall give notice of the succession to the Collector in the prescribed form, and shall pay to the Collector the prescribed fee for the service of the notice on the landlord and the landlord's fee [3] prescribed by section 12, and the Collector shall cause the landlord's fee to be paid to, and the notice to be served on, the landlord in the prescribed manner.

16. A person becoming entitled to a permanent tenure by succession shall not be entitled to recover by suit, distraint or other proceeding any rent payable to him as the holder of the tenure, until the Collector has received the notice and fees referred to in the last foregoing section.

Bar to recovery of rent pending notice of succession.

[4] 17. Subject to the provisions of section 88, the foregoing sections shall apply to the transfer of, or succession to, a share in a permanent tenure.

Transfer of, and succession to, share in permanent tenure.

CHAPTER IV.

RAIYATS HOLDING AT FIXED RATES.

[2, 4] 18. A raiyat holding at a rent, or rate of rent, fixed in perpetuity—

Incidents of holding at fixed rates.

(a) shall be subject to the same provisions with respect to the transfer of, and succession to, his holding as the holder of a permanent tenure, and

(b) shall not be ejected by his landlord, except on the ground that he has broken a condition inconsistent with this Act, and on breach of which he is, under the terms of a contract between him and his landlord, liable to be ejected.

[1] These words in square brackets in s. 13 were inserted by the Bengal Tenancy (Amendment) Act, 1885 (8 of 1886), s. 2 (6), *post*, p. 339.

[2] As to inspection, see the second paragraph of foot-note [1] on p. 258, *ante*.

[3] As to payment of fees under sections 15 and 18 to the Registrar of Mutations under the Land Records Maintenance Act, 1895 (Ben. Act 3 of 1895), see s. 20 of that Act, in Vol. IV of this Code.

[4] See the first paragraph of foot-note [1] on p. 258, *ante*.

CHAPTER V.

OCCUPANCY-RAIYATS.

General.

Continuance
of existing
occupancy
rights.

19. Every raiyat who immediately before the commencement of this Act has, by the operation of any enactment, by custom or otherwise, a right of occupancy in any land, shall, when this Act comes into force, have a right of occupancy in that land.

Definition of
"settled
raiayat."

20. (1) Every person who, for a period of twelve years, whether wholly or partly before or after the commencement of this Act, has continuously held as a raiyat land situate in any village, whether under a lease or otherwise, shall be deemed to have become, on the expiration of that period, a settled raiyat of that village.

(2) A person shall be deemed, for the purposes of this section, to have continuously held land in a village notwithstanding that the particular land held by him has been different at different times.

(3) A person shall be deemed, for the purposes of this section, to have held as a raiyat any land held as a raiyat by a person whose heir he is

(4) Land held by two or more co-sharers as a raiyati holding shall be deemed, for the purposes of this section, to have been held as a raiyat by each such co-sharer.

(5) A person shall continue to be a settled raiyat of a village as long as he holds any land as a raiyat in that village and for one year thereafter.

(6) If a raiyat recovers possession of land under section 87, he shall be deemed to have continued to be a settled raiyat notwithstanding his having been out of possession more than a year.

(7) If, in any proceeding under this Act, it is proved or admitted that a person holds any land as a raiyat, it shall, as between him and the landlord under whom he holds the land, be presumed, for the purposes of this section, until the contrary is proved or admitted, that he has for twelve years continuously held that land or some part of it as a raiyat.

Settled
raiayats to
have occu-
pancy rights.

21. (1) Every person who is a settled raiyat of a village within the meaning of the last foregoing section shall have a right of occupancy in all land for the time being held by him as a raiyat in that village.

(2) Every person who, being a settled raiyat of a village within the meaning of the last foregoing section, held land as a raiyat in that village at any time between the second day of March, 1883, and the commencement of this Act, shall be deemed to have acquired a right of occupancy in that

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(Chapter V.—Occupancy-Raiyats.—Sects. 22-26.)

land under the law then in force; but nothing in this sub-section shall affect any decree or order passed by a Court before the commencement of this Act.

22. (1) When the immediate landlord of an occupancy-holding is a proprietor or permanent tenure-holder, and the entire interests of the landlord and the raiyat in the holding become united in the same person by transfer, succession or otherwise, the occupancy-right shall cease to exist; but nothing in this sub-section shall prejudicially affect the rights of any third person.

Effect of acquisition of occupancy-right by landlord.

(2) If the occupancy-right in land is transferred to a person jointly interested in the land as proprietor or permanent tenure-holder, it shall cease to exist; but nothing in this sub-section shall prejudicially affect the rights of any third person.

(3) A person holding land as ijaradar or farmer of rents shall not, while so holding, acquire a right of occupancy in any land comprised in his ijara or farm.

Explanation.—A person having a right of occupancy in land does not lose it by subsequently becoming jointly interested in the land as proprietor or permanent tenure-holder, or by subsequently holding the land in ijara or farm.

Incidents of occupancy-right.

Incidents of occupancy-right.
Rights of raiyat in respect of use of land.

23. When a raiyat has a right of occupancy in respect of any land, he may use the land in any manner which does not materially impair the value of the land or render it unfit for the purposes of the tenancy; but shall not be entitled to cut down trees in contravention of any local custom.

24. An occupancy-raiyat shall pay rent for his holding at fair and equitable rates.

Obligation of raiyat to pay rent.

25. An occupancy-raiyat shall not be ejected by his landlord from his holding, except in execution of a decree for ejectment passed on the ground—

Protection from eviction except on specified grounds.

(a) that he has used the land comprised in his holding in a manner which renders it unfit for the purposes of the tenancy, or

(b) that he has broken a condition consistent with the provisions of this Act, and on breach of which he is, under the terms of a contract between himself and his landlord, liable to be ejected.

26. If a raiyat dies intestate in respect of a right of occupancy, it shall, subject to any custom to the contrary, descend in the same manner as other immoveable property: provided that in any case in which under the law of inheritance to which the raiyat is subject his other property goes to the Crown, his right of occupancy shall be extinguished.

Devolution of occupancy-right on death.

*Enhancement
of rent.
Presumption
as to fair and
equitable
rent.*

*Restriction on
enhancement
of money-
rents.
Enhancement
of rent by
contract.*

Enhancement of rent.

27. The rent for the time being payable by an occupancy-raiyat shall be presumed to be fair and equitable until the contrary is proved.

28. Where an occupancy-raiyat pays his rent in money, his rent shall not be enhanced except as provided by this Act.

29. The money-rent of an occupancy-raiyat may be enhanced by contract, subject to the following conditions:—

- (a) the contract must be in writing and registered;
- (b) the rent must not be enhanced so as to exceed by more than two annas in the rupee the rent previously payable by the raiyat;
- (c) the rent fixed by the contract shall not be liable to enhancement during a term of fifteen years from the date of the contract:

Provided as follows—

- (i) Nothing in clause (a) shall prevent a landlord from recovering rent at the rate at which it has been actually paid for a continuous period of not less than three years immediately preceding the period for which the rent is claimed.
- (ii) Nothing in clause (b) shall apply to a contract by which a raiyat binds himself to pay an enhanced rent in consideration of an improvement which has been or is to be effected in respect of the holding by, or at the expense of, his landlord, and to the benefit of which the raiyat is not otherwise entitled; but an enhanced rent fixed by such a contract shall be payable only when the improvement has been effected, and except when the raiyat is chargeable with default in respect of the improvement, only so long as the improvement exists and substantially produces its estimated effect in respect of the holding.
- (iii) When a raiyat has held his land at a specially low rate of rent in consideration of cultivating a particular crop for the convenience of the landlord, nothing in clause (b) shall prevent the raiyat from agreeing, in consideration of his being released from the obligation of cultivating that crop, to pay such rent as he may deem fair and equitable.

Enhancement

30. The landlord of a holding held at a money-rent by an occupancy-

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(Chapter V.—Occupancy Raiyats.—Sec. 31.)

raiyat may, subject to the provisions of this Act, institute a suit to enhance the rent on one or more of the following grounds, (namely):— of rent by suit.

- [1] [(a) that the rate of rent paid by the raiyat is below the prevailing rate paid by occupant raiyats for land of a similar description and with similar advantages in the same village or in neighbouring villages, and that there is no sufficient reason for his holding so low a rate;]
- (b) that there has been a rise in the average local prices of staple food-crops during the currency of the present rent;
- (c) that the productive powers of the land held by the raiyat have been increased by an improvement effected by, or at the expense of, the landlord during the currency of the present rent;
- (d) that the productive powers of the land held by the raiyat have been increased by fluvial action.

Explanation.—"Fluvial action" includes a change in the course of a river rendering irrigation from the river practicable when it was not previously practicable.

31. Where an enhancement is claimed on the ground that the rate of rent paid is below the prevailing rate— Rules as to enhancement on ground of prevailing rate.

- (a) in determining what is the prevailing rate the Court shall have regard to the rates generally paid during a period of not less than three years before the institution of the suit, and shall not decree an enhancement unless there is a substantial difference between the rate paid by the raiyat and the prevailing rate found by the Court;
- (b) if in the opinion of the Court the prevailing rate of rent cannot be satisfactorily ascertained without a local inquiry, the Court may direct that a local inquiry be held under Chapter XXV of the Code of Civil Procedure [2] by such Revenue-officer as the Local Government may authorize in that behalf by rules made under section 392 of the said Code;
- (c) in determining under this section the rate of rent payable by a raiyat, his caste shall not be taken into consideration, unless it is proved that by local custom caste is taken into account in determining the rate; and, whenever it is found that by local custom

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[1] This clause (a) in s. 30 was substituted for the original clause (a) by the Bengal Tenancy (Amendment) Act, 1898 (Ben. Act 3 of 1898), s. 2, *post*, p. 341.

[2] Printed in the General Acts, 1882-84, Ed. 1898, p. 383.

(Chapter V.—Occupancy Raiyats.—Sec. 31A.)

any description of raiyats hold land at favourable rates of rent, the rate shall be determined in accordance with that custom ;

(d) in ascertaining the prevailing rate of rent the amount of any enhancement authorized on account of a landlord's improvement shall not be taken into consideration ;

[1] [(e) if a favourable rate has been determined under clause (c) for any description of raiyats, such rate may, if the Court thinks fit, be left out of consideration in ascertaining the prevailing rate ;

[2] (f) if the holding is held at a ^{mp} rental, the determination of the rent to be paid may be made by ascertaining the different classes of land comprised ^{thin} the holding, and applying to the area of each class the prevailing rate paid on that class within the village or neighbourin villages.]

What may be taken in certain districts to be the 'prevailing rate.'

[2] 31A. (1) In any district or of a district [3] to which this sub-section is extended by the Local Government by notification in the Calcutta Gazette, whenever the prevailing rate for any class of land is to be ascertained under section 30, clause (a), by an examination of the rates at which lands of a similar description and with similar advantages are held within any village or villages, the highest of such rates at which and at rates higher than which the larger portion of those lands is held may be taken to be the prevailing rate.

Illustrations.

(a) The rates at which land of a similar description and with similar advantages is held in a village are as follow :—

Bighas.		Rs. A. P.
100	. . . . .	at 1 0 0
200	. . . . .	„ 1 8 0
150	. . . . .	„ 1 12 0
100	. . . . .	„ 2 0 0
150	. . . . .	„ 2 4 0

Total 700

Then Rs. 2-4 is not the prevailing rate, because only 150 bighas, or less than half, are held at that rate. Rs. 2 is not the prevailing rate, because 250 bighas, or less than half, are held at that or a higher rate. Rs. 1-12 is the prevailing rate, because 400 bighas, or more than half, are held either at this or a higher rate, and this is the highest rate at which, and at rates higher than which, more than half the land is held.

[1] Clauses (e) and (f) in s. 31 were inserted by the Bengal Tenancy (Amendment) Act, 1898 (Ben. Act 3 of 1898), s. 3, *post*, p. 341.

[2] S. 31A was inserted by the Bengal Tenancy (Amendment) Act, 1898 (Ben. Act 3 of 1898), s. 4, *post*, p. 341.

[3] S. 31A (1) has been extended to the Tippera District and the Government Estate of Taur Barha in the district of Monghyr—*see* Appendix B, *post*, p. 338.

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(Chapter V.—Occupancy-Raiyats.—Secs. 31B, 32.)

(b) The rates at which land of a similar description and with similar advantages is held in a village are as follow:—

Bighas.									Rs. A. P.
100	.	.	.	.	.	.	.	at	1 0 0
250	.	.	.	.	.	.	.	"	1 4 0
150	.	.	.	.	.	.	.	"	1 8 0
150	.	.	.	.	.	.	.	"	1 12 0
50	.	.	.	.	.	.	.	"	2 0 0
Total	700								

Then, for the reasons given in Illustration (a), neither Rs. 2 nor Rs. 1-12 is the prevailing rate, nor is Rs. 1-8 the prevailing rate, because only 350 bighas (exactly half) are held at Rs. 1-8 or at rates higher than Rs. 1-8. In this case Rs. 1-4 is the prevailing rate, because more than half the lands are held at Rs. 1-4 or higher rates, and this is the highest rate at which, and at rates higher than which, more than half the land is held.

(2) The Local Government may, by a like notification, withdraw sub-section (1) from any district or part of a district to which it has been extended as aforesaid.

[1] 31B. When the prevailing rate has once been determined by a Revenue-officer under Chapter X or by a Civil Court in any suit under this Act, it shall not be liable to enhancement, save on the ground and to the extent specified in section 30, clause (b), and section 32.

Limit to enhancement of prevailing rate.

32. Where an enhancement is claimed on the ground of a rise in prices—

Rules as to enhancement on ground of rise in prices.

- (a) the Court shall compare the average prices during the decennial period immediately preceding the institution of the suit with the average prices during such other decennial period as it may appear equitable and practicable to take for comparison ;
- (b) the enhanced rent shall bear to the previous rent the same proportion as the average prices during the last decennial period bear to the average prices during the previous decennial period taken for purposes of comparison : provided that, in calculating this proportion, the average prices during the later period shall be reduced by one-third of their excess over the average prices during the earlier period ;
- (c) if in the opinion of the Court it is not practicable to take the decennial periods prescribed in clause (a), the Court may, in its discretion, substitute any shorter periods therefor.

[1] S. 31B was inserted by the Bengal Tenancy (Amendment) Act, 1898 (Ben. Act 3 of 1898), s. 4, *post*, p. 341.

Rules as to
enhancement
on ground of
landlord's im-
provement.

33. (1) Where an enhancement is claimed on the ground of a landlord's improvement—

(a) the Court shall not grant an enhancement unless the improvement has been registered in accordance with this Act ;

(b) in determining the amount of enhancement the Court shall have regard to—

(i) the increase in the productive powers of the land caused or likely to be caused by the improvement,

(ii) the cost of the improvement,

(iii) the cost of the cultivation required for utilizing the improvement, and

(iv) the existing rent and the ability of the land to bear a higher rent.

(2) A decree under this section shall, on the application of the tenant or his successor in interest, be subject to re-consideration in the event of the improvement not producing or ceasing to produce the estimated effect.

Rules as to en-
hancement on
ground of in-
crease in pro-
ductive pow-
ers due to
fluvial action.

34. Where an enhancement is claimed on the ground of an increase in Productive powers due to fluvial action—

(a) the Court shall not take into account any increase which is merely temporary or casual ;

(b) the Court may enhance the rent to such an amount as it may deem fair and equitable, but not so as to give the landlord more than one-half of the value of the net increase in the produce of the land.

Enhancement
by suit to be
fair and equi-
table.

35. Notwithstanding anything in the foregoing sections, the Court shall not in any case decree any enhancement which is under the circumstances of the case unfair or inequitable.

Power to
order progres-
sive enhance-
ment.

36. If the Court passing a decree for enhancement considers that the immediate enforcement of the decree in its full extent will be attended with hardship to the raiyat, it may direct that the enhancement shall be gradual; that is to say, that the rent shall increase yearly by degrees for any number of years not exceeding five until the limit of the enhancement decreed has been reached.

Limitation of
right to bring
successive

37. (1) A suit instituted for the enhancement of the rent of a holding on the ground that the rate of rent paid is below the prevailing rate, or on the ground of a rise in prices, shall not be entertained if within the fifteen years next preceding its institution the rent of the holding has been enhanced by a contract made after the second day of March, 1883, or if within the said period

of fifteen years the rent has been commuted under section 40, or a decree has been passed under this Act or any enactment repealed by this Act enhancing the rent on either of the grounds aforesaid or on any ground corresponding thereto or dismissing the suit on the merits.

14 of 1882.

(2) Nothing in this section shall affect the provisions of section 373 of the Code of Civil Procedure.[1]

Reduction of rent.

Reduction of rent.

38. (1) An occupancy-raiyat holding at a money-rent may institute a suit for the reduction of his rent on the following grounds, and, except as hereinafter provided in the case of diminution of the area of the holding, not otherwise, (namely) :—

Reduction of rent.

(a) on the ground that the soil of the holding has without the fault of the raiyat become permanently deteriorated by a deposit of sand or other specific cause, sudden or gradual, or

(b) on the ground that there has been a fall, not due to a temporary cause, in the average local prices of staple food-crops during the currency of the present rent.

(2) In any suit instituted under this section, the Court may direct such reduction of the rent as it thinks fair and equitable.

Price-lists.

Price lists.

39. (1) The Collector of every district shall prepare, monthly, or at shorter intervals, periodical lists of the market-prices of staple food-crops grown in such local areas as the Local Government may from time to time direct, and shall submit them to the Board of Revenue for approval or revision.

Price-lists of staple food-crops.

(2) The Collector may, if so directed by the Local Government, prepare for any local area like price-lists relating to such past times as the Local Government thinks fit, and shall submit the lists so prepared to the Board of Revenue for approval or revision.

(3) The Collector shall, one month before submitting a price-list to the Board of Revenue under this section, publish it in the prescribed manner within the local area to which it relates, and if any landlord or tenant of land within the local area, within the said period of one month, presents to him in writing any objection to the list, he shall submit the same to the Board of Revenue with the list.

(4) The price-lists shall, when approved or revised by the Board of Revenue, be published in the official Gazette; and any manifest error in any such list

(Chapter V.—Occupancy Raiyats.—Sec. 40.)

discovered after its publication may be corrected by the Collector with the sanction of the Board of Revenue.

(5) The Local Government shall cause to be compiled from the periodical lists prepared under this section lists of the average prices prevailing throughout each year, and shall cause them to be published annually in the official Gazette.

(6) In any proceedings under this Chapter for an enhancement or reduction of rent on the ground of a rise or fall in prices, the Court shall refer to the lists published under this section, and shall presume that the prices shown in the lists prepared for any year subsequent to the passing of this Act are correct, [1] [and may presume that the prices shown in the lists prepared for any year prior to the passing of this Act are correct] unless and until it is proved that they are incorrect.

(7) The Local Government, subject to the control of the Governor General in Council, shall make rules for determining what are to be deemed staple food-crops in any local area and for the guidance of officers preparing price-lists under this section.

*Commutation.**Commutation.*

Commutation
of rent
payable
in kind.

40. (1) Where an occupancy-raiyat pays for a holding rent in kind, or on the estimated value of a portion of the crop, or at rates varying with the crop, or partly in one of those ways and partly in another, either the riyat or his landlord may apply to have the rent commuted to a money-rent.

(2) The application may be made to the Collector or Sub-divisional Officer or to an officer making a settlement of rents under Chapter X, or to any other officer specially authorized in this behalf by the Local Government.

(3) On the receipt of the application the officer may determine the sum to be paid as money-rent, and may order that the riyat shall, in lieu of paying his rent in kind, or otherwise as aforesaid, pay the sum so determined.

(4) In making the determination the officer shall have regard to—

- (a) the average money-rent payable by occupancy-raiyats for land of a similar description and with similar advantages in the vicinity ;
- (b) the average value of the rent actually received by the landlord during the preceding ten years or during any shorter period for which evidence may be available ; and

[1] These words in square brackets in s. 39 (6) inserted by the Bengal Tenancy (Amendment) Act, 1898 (Ben. Act 3 of 1898), s. 5, *post*, 341.

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(Chapter VI.—Non-occupancy-Raiyats.—Secs. 41-44.)

(c) the charges incurred by the landlord in respect of irrigation under the system of rent in kind, and the arrangements made on commutation for continuing those charges.

(5) The order shall be in writing, shall state the grounds on which it is made, and the time from which it is to take effect, and shall be subject to appeal in like manner as if it were an order made in an ordinary revenue proceeding.

(6) If the application is opposed, the officer shall consider whether under all the circumstances of the case it is reasonable to grant it, and shall grant or refuse it accordingly. If he refuses it, he shall record in writing the reasons for the refusal.

CHAPTER VI.

NON-OCCUPANCY-RAIYATS.

41. This Chapter shall apply to raiyats not having a right of occupancy, who are in this Act referred to as non-occupancy-raiyats. Application of Chapter.

42. When a non-occupancy-raiyat is admitted to the occupation of land, he shall become liable to pay such rent as may be agreed on between himself and his landlord at the time of his admission. Initial rent of non-occupancy-raiyat.

43. The rent of a non-occupancy-raiyat shall not be enhanced except by registered agreement or by agreement under section 46 : Conditions of enhancement of rent.

Provided that nothing in this section shall prevent a landlord from recovering rent at the rate at which it has been actually paid for a continuous period of not less than three years immediately preceding the period for which the rent is claimed.

44. A non-occupancy-raiyat shall, subject to the provisions of this Act, be liable to ejectment on one or more of the following grounds, and not otherwise, (namely) :— Grounds on which non-occupancy-raiyat may be ejected.

- (a) on the ground that he has failed to pay an arrear of rent ;
- (b) on the ground that he has used the land in a manner which renders it unfit for the purposes of the tenancy, or that he has broken a condition consistent with this Act and on breach of which he is, under the terms of a contract between himself and his landlord, liable to be ejected ;
- (c) where he has been admitted to occupation of the land under a registered lease, on the ground that the term of the lease has expired ;

(Chapter VI.—Non-occupancy-Raiyats.—Secs. 45, 46.)

(d) on the ground that he has refused to agree to pay a fair and equitable rent determined under section 46, or that the term for which he is entitled to hold at such a rent has expired.

Conditions of
ejectment on
ground of ex-
piration of
lease.

45. A suit for ejectment on the ground of the expiration of the term of a lease shall not be instituted against a non-occupancy-raiyat unless notice to quit has been served on the raiyat not less than six months before the expiration of the term, and shall not be instituted after six months from the expiration of the term.

Conditions of
ejectment on
ground of
refusal to
agree to
enhancement.

46. (1) A suit for ejectment on the ground of refusal to agree to an enhancement of rent shall not be instituted against a non-occupancy-raiyat unless the landlord has tendered to the raiyat an agreement to pay the enhanced rent, and the raiyat has within three months before the institution of the suit refused to execute the agreement.

(2) A landlord desiring to tender an agreement to a raiyat under this section may file it in the office of such Court or officer as the Local Government appoints in this behalf for service on the raiyat. The Court or officer shall forthwith cause it to be served on the raiyat in the prescribed manner, and when it has been so served, it shall for the purposes of this section be deemed to have been tendered.

(3) If a raiyat on whom an agreement has been served under sub-section (2) executes it, and within one month from the date of service files it in the office from which it issued, it shall take effect from the commencement of the agricultural year next following.

(4) When an agreement has been executed and filed by a raiyat under sub-section (3), the Court or officer in whose office it is so filed shall forthwith cause a notice of its being so executed and filed to be served on the landlord in the prescribed manner.

(5) If the raiyat does not execute the agreement and file it under sub-section (3), he shall be deemed for the purposes of this section to have refused to execute it.

(6) If a raiyat refuses to execute an agreement tendered to him under this section, and the landlord thereupon institutes a suit to eject him, the Court shall determine what rent is fair and equitable for the holding.

(7) If the raiyat agrees to pay the rent so determined, he shall be entitled to remain in occupation of his holding at that rent for a term of five years from the date of the agreement, but on the expiration of that term shall be liable to ejectment under the conditions mentioned in the last foregoing section, unless he has acquired a right of occupancy.

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(Chapter VII.—Under-Raiyats.—Chapter VIII.—General Provisions as to Rent.—Secs. 47-50.)

(8) If the raiyat does not agree to pay the rent so determined, the Court shall pass a decree for ejectment.

(9) In determining what rent is fair and equitable, the Court shall have regard to the rents generally paid by raiyats for land of a similar description and with like advantages in the same village.

(10) A decree for ejectment passed under this section shall take effect from the end of the agricultural year in which it is passed.

47. Where a raiyat has been in occupation of land and a lease is executed with a view to a continuance of his occupation, he is not to be deemed to be admitted to occupation by that lease for the purposes of this Chapter, notwithstanding that the lease may purport to admit him to occupation.

Explanation of "admitted to occupation."

CHAPTER VII.

UNDER-RAIYATS.

48. The landlord of an under-raiyat holding at a money-rent shall not be entitled to recover rent exceeding the rent which he himself pays by more than the following percentage of the same, (namely) :—

Limit of rent recoverable from under-raiyats.

(a) when the rent payable by the under-raiyat is payable under a registered lease or agreement—fifty *per cent.*; and

(b) in any other case—twenty-five *per cent.*

49. An under-raiyat shall not be liable to be ejected by his landlord, except—

Restriction on ejectment of under-raiyats.

(a) on the expiration of the term of a written lease;

(b) when holding otherwise than under a written lease, at the end of the agricultural year next following the year in which a notice to quit is served upon him by his landlord.

CHAPTER VIII.

GENERAL PROVISIONS AS TO RENT.

Rules and presumptions as to amount of rent.

Rules and presumptions as to amount of rent.
Rules and presumptions as to fixity of rent.

50. (1) Where a tenure-holder or raiyat and his predecessors in interest have held at a rent or rate of rent which has not been changed from the time of the Permanent Settlement, the rent or rate of rent shall not be liable to be increased except on the ground of alteration in the area of the tenure or holding.

(Chapter VIII.—General Provisions as to Rent.—Secs. 51, 52.)

(2) If it is proved in any suit or other proceeding under this Act that either a tenure-holder or raiyat and his predecessors in interest have held at a rent or rate of rent which has not been changed during the twenty years immediately before the institution of the suit or proceeding, it shall be presumed, until the contrary is shown, that they have held at that rent or rate of rent from the time of the Permanent Settlement:

Provided that if it is required by or under any enactment that in any local area tenancies, or any classes of tenancies, at fixed rents or rates of rent shall be registered as such on, or before, a date specified by or under the enactment, the foregoing presumption shall not after that date apply to any tenancy or, as the case may be, to any tenancy of that class in that local area unless the tenancy has been so registered.

(3) The operation of this section so far as it relates to land held by a raiyat, shall not be affected by the fact of the land having been separated from other land which formed with it a single holding, or amalgamated with other land into one holding.

(4) Nothing in this section shall apply to a tenure held for a term of years or determinable at the will of the landlord.

Presumption
as to amount
of rent and
conditions of
holding.

51. If a question arises as to the amount of a tenant's rent or the conditions under which he holds in any agricultural year, he shall be presumed, until the contrary is shown, to hold at the same rent and under the same conditions as in the last preceding agricultural year.

Alteration of
rent on alter-
ation of area.

Alteration of rent on alteration of area.

Alteration of
rent in respect
of alteration
in area.

52. (1) Every tenant shall—

- (a) be liable to pay additional rent for all land proved by measurement to be in excess of the area for which rent has been previously paid by him, unless it is proved that the excess is due to the addition to the tenure or holding of land which having previously belonged to the tenure or holding was lost by diluvion or otherwise without any reduction of the rent being made; and
- (b) be entitled to a reduction of rent in respect of any deficiency proved by measurement to exist in the area of his tenure or holding as compared with the area for which rent has been previously paid by him, unless it is proved that the deficiency is due to the loss of land which was added to the area of the tenure or holding by alluvion or otherwise, and that an addition has not been made to the rent in respect of the addition to the area.

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THE BENGAL TENANCY ACT, 1885.

(Chapter VIII.—General Provisions as to Rent.—Sec. 53.)

(2) In determining the area for which rent has been previously paid, the Court shall, if so required by any party to the suit, have regard to—

- (a) the origin and conditions of the tenancy, for instance, whether the rent was a consolidated rent for the entire tenure or holding;
- (b) whether the tenant has been allowed to hold additional land in consideration of an addition to his total rent or otherwise with the knowledge and consent of the landlord;
- (c) the length of time during which the tenancy has lasted without dispute as to rent or area;
- (d) the length of the measure used or in local use at the time of the origin of the tenancy as compared with that used or in local use at the time of the institution of the suit.

(3) In determining the amount to be added to the rent, the Court shall have regard to the rates payable by tenants of the same class for lands of a similar description and with similar advantages in the vicinity, and, in the case of a tenure-holder, to the profits to which he is entitled in respect of the rent of his tenure, and shall not in any case fix any rent which, under the circumstances of the case, is unfair or inequitable.

(4) The amount abated from the rent shall bear the same proportion to the rent previously payable as the diminution of the total yearly value of the tenure or holding bears to the previous total yearly value thereof, or in default of satisfactory proof of the yearly value of the land lost, shall bear to the rent previously payable the same proportion as the diminution of area bears to the previous area of the tenure or holding.

[1] (5) [When in a suit under this section the landlord or tenant is unable to indicate any particular land as held in excess, the rent to be added on account of the excess area may be calculated at the average rate of rent paid on all the lands of the holding exclusive of such excess area.]

Payment of rent. [2]

Payment of rent.

53. Subject to agreement or established usage, a money-rent payable by a tenant shall be paid in four equal instalments falling due on the last day of each quarter of the agricultural year

Instalments of rent.

[1] Sub-section (5) was added to s. 52 by the Bengal Tenancy (Amendment) Act, 1898 (Ben. Act 3 of 1898), s. 6, *post*, p. 341.

[2] The word "rent," in ss. 53 to 55, includes also money recoverable under any enactment for the time being in force as if it was rent—see s. 3 (5), *ante*, p. 254.

(Chapter VIII.—General Provisions as to Rent.—Secs. 54-57.)

Time and
place for
payment of
rent.

54. (1) Every tenant shall pay each instalment of rent before sunset of the day on which it falls due.

(2) The payment shall, except in cases where a tenant is allowed under this Act to deposit his rent, be made at the landlord's village-office, or at such other convenient place as may be appointed in that behalf by the landlord :

Provided that the Local Government may, from time to time, make rules either generally or for any specified local area, authorizing a tenant to pay his rent by postal money-order. [1]

(3) Any instalment or part of an instalment of rent not duly paid at or before the time when it falls due shall be deemed an arrear.

Appropriation
of payments.

55. (1) When a tenant makes a payment on account of rent, he may declare the year or the year and instalment to which he wishes the payment to be credited, and the payment shall be credited accordingly.

(2) If he does not make any such declaration, the payment may be credited to the account of such year and instalment as the landlord thinks fit,

Receipts and
accounts.
Tenant
making
payment to
his landlord
entitled to a
receipt.

Receipts and accounts. [2]

56. (1) Every tenant who makes a payment on account of rent to his landlord shall be entitled to obtain forthwith from the landlord a written receipt for the amount paid by him, signed by the landlord.

(2) The landlord shall prepare and retain a counterfoil of the receipt.

(3) The receipt and counterfoil shall specify such of the several particulars shown in the form of receipt given in Schedule II to this Act as can be specified by the landlord at the time of payment :

Provided that the Local Government may, from time to time, prescribe or sanction a modified form [3] either generally or for any particular local area or class of cases.

(4) If a receipt does not contain substantially the particulars required by this section, it shall be presumed, until the contrary is shown, to be an acquittance in full of all demands for rent up to the date on which the receipt was given.

Tenant
entitled to
full discharge.

57. (1) Where a landlord admits that all rent payable by a tenant to the end of the agricultural year has been paid, the tenant shall be entitled to receive from the landlord, free of charge, within three months after the end

[1] For rules as to Rent Money-Orders, see the Board's Rules, 1902, pages 139 to 143.

[2] The word "rent," in ss. 56 to 60, includes also money recoverable under any enactment for the time being in force as if it was rent—see s. 3 (5), ante, p. 254.

[3] For references to notifications prescribing modified forms of receipt, see para. (25) of foot-note on p. 252, ante.

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(Chapter VIII.—General Provisions as to Rent.—Secs. 58-60.)

of the year, a receipt in full discharge of all rent falling due to the end of the year, signed by the landlord.

or statement of account at close of year.

(2) Where the landlord does not so admit, the tenant shall be entitled, on paying a fee of four annas, to receive, within three months after the end of the year, a statement of account specifying the several particulars shown in the form of account given in Schedule I to this Act, or in such other form [1] as may from time to time be prescribed by the Local Government either generally or for any particular local area or class of cases.

(3) The landlord shall prepare and retain a copy of the statement containing similar particulars.

58. (1) If a landlord without reasonable cause refuses or neglects to deliver to a tenant a receipt containing the particulars prescribed by section 56 for any rent paid by the tenant, the tenant may, within three months from the date of payment, institute a suit to recover from him such penalty, not exceeding double the amount of value of that rent, as the Court thinks fit.

Penalties and fine for withholding receipts and statements of account and failing to keep counterparts.

(2) If a landlord without reasonable cause refuses or neglects to deliver to a tenant demanding the same either the receipt in full discharge or, if the tenant is not entitled to such a receipt, the statement of account for any year prescribed in section 57, the tenant may, within the next ensuing agricultural year, institute a suit to recover from him such penalty as the Court thinks fit, not exceeding double the aggregate amount or value of all rent paid by the tenant to the landlord during the year for which the receipt or account should have been delivered.

(3) If a landlord without reasonable cause fails to prepare and retain a counterfoil or copy of a receipt or statement as required by either of the said sections, he shall be punished with fine which may extend to fifty rupees.

59. (1) The Local Government shall cause to be prepared and kept for sale to landlords at all sub-divisional offices forms of receipts with counterfoils and of statements of account suitable for use under the foregoing sections.

Local Government to prepare forms of receipt and account.

(2) The forms may be sold in books with the leaves consecutively numbered or otherwise as the Local Government thinks fit.

60. Where rent is due to the proprietor, manager or mortgagee of an estate, the receipt of the person registered under the Land Registration Act, 1876, [2] as proprietor, manager or mortgagee of that estate, or of his agent authorized in that behalf, shall be a sufficient discharge for the rent; and the

Effect of receipt by registered proprietor, manager or mortgagee.

Act 7 of

[1] For reference to a notification prescribing modified form of account, see para. (26) of foot-note on p. 252, ante.

[2] Printed in Vol. IV of this Code.

(Chapter VIII.—General Provisions as to Rent.—Sec. 61.)

person liable for the rent shall not be entitled to plead in defence to a claim by the person so registered that the rent is due to any third person.

But nothing in this section shall affect any remedy which any such third person may have against the registered proprietor, manager or mortgagee.

Deposit of rent.

Application to deposit rent in Court.

Deposit of rent. [1]

61. (1) In any of the following cases, namely:—

- (a) when a tenant tenders money on account of rent and the landlord refuses to receive it or refuses to grant a receipt for it;
- (b) when a tenant bound to pay money on account of rent has reason to believe, owing to a tender having been refused or a receipt withheld on a previous occasion, that the person to whom his rent is payable will not be willing to receive it and to grant him a receipt for it;
- (c) when the rent is payable to co-sharers jointly, and the tenant is unable to obtain the joint receipt of the co-sharers for the money and no person has been empowered to receive the rent on their behalf; or
- (d) when the tenant entertains a *bonâ fide* doubt as to who is entitled to receive the rent,

the tenant may present to the Court having jurisdiction to entertain a suit for the rent of his tenure or holding an application in writing for permission to deposit in the Court the full amount of the money then due.

(2) The application shall contain a statement of the grounds on which it is made; shall state—

in cases (a) and (b), the name of the person to whose credit the deposit is to be entered,

in case (c), the names of the sharers to whom the rent is due, or of so many of them as the tenant may be able to specify, and

in case (d), the names of the person to whom the rent was last paid and of the person or persons now claiming it;

shall be signed and verified, in the manner prescribed in section 52 of the Code of Civil Procedure, [2] by the tenant, or, where he is not personally cognizant of the facts of the case, by some person so cognizant; and shall be accompanied by a fee of such amount as the Local Government, from time to time, by rule, directs.

[1] The word "rent," in ss. 61 to 64, includes also money recoverable under any enactment for the time being in force as if it was rent—see s. 3 (5), *ante*, p. 254.

[2] Printed in the General Acts, 1882-84, E. 1698, p. 283.

of 1885.]

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(Chapter VIII.—General Provisions as to Rent.—Secs. 62-64.)

62. (1) If it appears to the Court to which an application is made under the last foregoing section that the applicant is entitled under that section to deposit the rent, it shall receive the rent and give a receipt for it under the seal of the Court.

Receipt granted by Court for rent deposited to be a valid acquittance.

(2) A receipt given under this section shall operate as an acquittance for the amount of the rent payable by the tenant and deposited as aforesaid, in the same manner and to the same extent as if that amount of rent had been received—

in cases (a) and (b) of the last foregoing section, by the person specified in the application as the person to whose credit the deposit was to be entered ;

in case (c) of that section, by the co-sharers to whom the rent is due ; and

in case (d) of that section, by the person entitled to the rent.

63. (1) The Court receiving the deposit shall forthwith cause to be affixed in a conspicuous place at the Court-house a notification of the receipt thereof, containing a statement of all material particulars.

Notification of receipt of deposit.

(2) If the amount of the deposit is not paid away under the next following section, within the period of fifteen days next following the date on which the notification is so affixed, the Court shall forthwith—

in cases (a) and (b) of section 6, cause a notice of the receipt of the deposit to be served, free of charge, on the person specified in the application as the person to whose credit the deposit was to be entered ;

in case (c) of that section, cause a notice of the receipt of the deposit to be posted at the landlord's village office or in some conspicuous place in the village in which the holding is situate ; and

in case (d) of that section, cause a like notice to be served, free of charge on every person who it has reason to believe claims or is entitled to the deposit.

64. (1) The Court may pay the amount of the deposit to any person appearing to it to be entitled to the same, or may, if it thinks fit, retain the amount pending the decision of a Civil Court as to the person so entitled.

Payment or refund of deposit.

(2) The payment may, if the Local Government so direct, be made by postal money-order.

(3) If no payment is made under this section before the expiration of three years from the date on which a deposit is made, the amount deposited

(Chapter VIII.—General Provisions as to Rent.—Secs. 65-67.)

may, in the absence of any order of a Civil Court to the contrary, be repaid to the depositor upon his application and on his returning the receipt given by the Court with which the rent was deposited.

(4) No suit or other proceeding shall be instituted against the Secretary of State for India in Council, or against any officer of the Government, in respect of anything done by a Court receiving a deposit under the foregoing sections; but nothing in this section shall prevent any person entitled to receive the amount of any such deposit from recovering the same from a person to whom it has been paid under this section.

Arrears of rent.

Liability to sale for arrears in case of permanent tenure, holding at fixed rates or occupancy-holding. Ejectment for arrears in other cases.

Arrears of rent. [1]

65. Where a tenant is a permanent tenure-holder, a raiyat holding at fixed rates or an occupancy-raiyat, he shall not be liable to ejectment for arrears of rent, but his tenure or holding shall be liable to sale in execution of a decree for the rent thereof, and the rent shall be a first charge thereon.

66. (1) When an arrear of rent remains due from a tenant not being a permanent tenure-holder, a raiyat holding at fixed rates or an occupancy-raiyat, at the end of the Bengali year [2] where that year prevails, or at the end of the month of Jeth [3] where the Fasli or Amli year prevails, the landlord may, whether he has obtained a decree for the recovery of the arrear or not, and whether he is entitled by the terms of any contract to eject the tenant, for arrears or not, institute a suit to eject the tenant.

(2) In a suit for ejectment for an arrear of rent a decree passed in favour of the plaintiff shall specify the amount of the arrear and of the interest (if any) due thereon, and the decree shall not be executed if that amount and the costs of the suit are paid into Court within fifteen days from the date of the decree, or when the Court is closed on the fifteenth day, on the day upon which the Court re-opens.

(3) The Court may for special reasons extend the period of fifteen days mentioned in this section.

Interest on arrears.

67. An arrear of rent shall bear simple interest at the rate of twelve *per centum per annum* from the expiration of the quarter of the agricultural year in which the instalment falls due to the institution of the suit.

[1] The word "rent" in ss. 65 to 68 includes also money recoverable under any enactment for the time being in force as if it was rent—*see s. 3 (5), ante*, p. 254.

[2] i.e., the month of Chaitra, which corresponds with the last part of March and the first part of April.

[3] The month of Jeth corresponds with the last part of May and the first part of June.

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THE BENGAL TENANCY ACT, 1885.

(Chapter VIII.—General Provisions as to Rent.—Secs. 68-70.)

68. (1) If, in any suit brought for the recovery of arrears of rent, it appears to the Court that the defendant has, without reasonable or probable cause, neglected or refused to pay the amount of rent due by him, the Court may award to the plaintiff, in addition to the amount decreed for rent and costs, such damages, not exceeding twenty-five *per centum* on the amount of rent decreed, as it thinks fit.

Power to award damages on rent withheld without reasonable cause, or to defendant improperly sued for rent.

Provided that interest shall not be decreed when damages are awarded under this section.

(2) If, in any suit brought for the recovery of arrears of rent, it appears to the Court that the plaintiff has instituted the suit without reasonable or probable cause, the Court may award to the defendant, by way of damages, such sum, not exceeding twenty-five *per centum* on the whole amount claimed by the plaintiff, as it thinks fit.

Produce rents.

69. (1) Where rent is taken by appraisement or division of the produce,—

Produce rents.

(a) if either the landlord or the tenant neglects to attend, either personally or by agent, at the proper time for making the appraisement or division, or

Order for appraising or dividing produce.

(b) if there is a dispute about the quantity, value or division of the produce,

the Collector may, on the application of either party, and on his depositing such sum on account of expenses as the Collector may require, make an order appointing such officer as he thinks fit to appraise or divide the produce.

(2) The Collector may, without such an application, make the like order in any case where in the opinion of the District or Sub-divisional Magistrate the making of the order would be likely to prevent a breach of the peace.

(3) Where a Collector makes an order under this section, he may, by order, prohibit the removal of the produce until the appraisement or division has been effected.

70. (1) When a Collector appoints an officer under the last foregoing section, the Collector may, in his discretion, associate the officer with himself any other persons as assessors, and may give him instructions regarding the number, qualifications and mode of selection of those assessors (if any), and the procedure to be followed in making the appraisement or division; and the officer shall confer to them instructions so given.

Procedure where officer appointed.

(2) The officer shall, before making an appraisement or division, give notice to the landlord and tenant of the time and place at which the

(Chapter VIII.—General Provisions as to Rent.—Secs. 71, 72.)

appraisement or division will be made; but if either the landlord or the tenant fails to attend either personally or by agent, he may proceed *ex parte*.

(3) When the officer has made the appraisement or division, he shall submit a report of his proceedings to the Collector.

(4) The Collector shall consider the report, and, after giving the parties an opportunity of being heard and making such inquiry (if any) as he may think necessary, shall pass such order thereon as he thinks just.

(5) The Collector may, if he thinks fit, refer any question in dispute between the parties for the decision of a Civil Court, but, subject as aforesaid, his order shall be final and shall, on application to a Civil Court by the landlord or the tenant, be enforceable as a

(6) Where the officer makes an appraisement, the appraisement papers shall be filed in the Collector's office.

Rights and liabilities as to possession of crop.

71. (1) Where rent is taken by appraisement of the produce, the tenant shall be entitled to the exclusive possession of the produce.

(2) Where rent is taken by division of the produce, the tenant shall be entitled to the exclusive possession of the whole produce until it is divided, but shall not be entitled to remove any portion of the produce from the threshing-floor at such a time or in such manner as to prevent the due division thereof at the proper time.

(3) In either case the tenant shall be entitled to cut and harvest the produce in due course of husbandry without any interference on the part of the landlord.

(4) If the tenant removes any portion of the produce at such a time or in such a manner as to prevent the due appraisement or division thereof at the proper time, the produce shall be deemed to have been as full as the fullest crop of the same description appraised in the neighbourhood on similar land for that harvest.

Liability for rent on change of landlord or after transfer of

Liability for rent on change of landlord or after transfer of tenure or holding.^[1]

King.
Tenant not liable to transferee of landlord's interest for rent paid to former

72. (1) A tenant shall not, when his landlord's interest is transferred, be liable to the transferee for rent which became due after the transfer and was paid to the landlord whose interest was so transferred, unless the transferee has before the payment given notice of the transfer to the tenant.

[1] The word "rent" in ss. 72 and 73 includes also money recoverable under any enactment for the time being in force as if it was rent—see s. 3 (3), *ante*, p. 254.

LANDLORD AND TENANT.

of 1885.]

THE BENGAL TENANCY ACT, 1885.

(Chapter VIII.—General Provisions as to Rent.—Chapter IX.—Miscellaneous Provisions as to Landlords and Tenants.—Secs. 73-76.)

(2) Where there is more than one tenant paying rent to the landlord whose interest is transferred, a general notice from the transferee to the tenants published in the prescribed manner shall be a sufficient notice for the purposes of this section. landlord, without notice of the transfer.

73. When an occupancy-raiyat transfers his holding without the consent of the landlord, the transferor and transferee shall be jointly and severally liable to the landlord for arrears of rent accruing due after the transfer, unless and until notice of the transfer is given to the landlord in the prescribed manner. Liability for rent after transfer of occupancy-holding.

Illegal cesses, etc.[1]

Illegal cesses, etc.

74. All impositions upon tenants under the denomination of abwab, mathat or other like appellations, in addition to the actual rent, shall be illegal, and all stipulations and reservations for the payment of such shall be void. Abwab, etc., illegal.

75. Every tenant from whom, except under any special enactment for the time being in force, any sum of money or any portion of the produce of his land is exacted by his landlord in excess of the rent lawfully payable, may, within six months from the date of the exaction, institute a suit to recover from the landlord, in addition to the amount or value of what is so exacted, such sum by way of penalty as the court thinks fit, not exceeding two hundred rupees; or when double the amount or value of what is so exacted exceeds two hundred rupees, not exceeding double that amount or value. Penalty for exaction by landlord from tenant of sum in excess of the rent payable.

CHAPTER IX.

MISCELLANEOUS PROVISIONS AS TO LANDLORDS AND TENANTS.

Improvements.

Improvements.

76. (1) For the purposes of this Act, reference to a raiyat's holding, shall mean any term "improvement," used with reference to a raiyat's holding, shall mean any work which adds to the value of the holding which is suitable to the holding and consistent with the purpose for which it was let, and which, if not executed on the holding, is either executed directly for its benefit, or is, after execution, made directly beneficial to it. Definition of "improvement."

[1] The word "rent" in ss. 74 and 75 includes any sum payable for the time being in force as if it was rent—see s. 3.

any recoverable under any enactment, p. 254.

(Chapter IX.—Miscellaneous Provisions as to Landlords and Tenants.—
Secs. 77 [79].)

(2) Until the contrary is shown, the following shall be presumed to be improvements within the meaning of section:—

- (a) the construction of wells, tanks, water-channels and other works for the storage, supply or distribution of water for the purposes of agriculture, or for the use of men and cattle employed in agriculture;
- (b) the preparation of land for irrigation;
- (c) the drainage, reclamation from rivers or other waters, or protection from floods, or from erosion or other damage by water, of land used for agricultural purposes, or waste-land which is culturable;
- (d) the reclamation, clearance, enclosure or permanent improvement of land for agricultural purposes;
- (e) the renewal or re-construction of any of the foregoing works, or alterations therein or additions thereto; and
- (f) the erection of a suitable dwelling-house for the raiyat and his family, together with all necessary out-offices.

(3) But no work executed by the raiyat of a holding shall be deemed to be an improvement for the purposes of this Act if it substantially diminishes the value of his landlord's property.

Right to make improvements in case of holding at fixed rates and occupancy-holding.

77. (1) Where a raiyat holds at fixed rates or has an occupancy-right in his holding, neither the raiyat nor his landlord shall, as such, be entitled to prevent the other from making an improvement in respect of the holding, except on the ground that he is willing to make it himself.

(2) If both the raiyat and his landlord wish to make the same improvement, the raiyat shall have the prior right to make it, unless it affects another holding or other holdings under the same landlord.

Collector to decide question as to right to make improvement, etc.

78. If a question arises between the raiyat and his landlord—

- (a) as to the right to make an improvement, or
- (b) as to whether a particular work is an improvement,

the Collector may, on the application of either party, decide the question, and his decision shall be final.

Right to make improvements in case of non-occupancy-holding.

79. (1) A non-occupancy-raiyat shall be entitled to construct, maintain and repair a well for the irrigation of his holding, with all works incidental thereto, and to erect a suitable dwelling-house himself and his family, with all necessary out-offices but shall not, except aforesaid and as next herein-after provided, be entitled to make any other improvement in respect of his holding without his landlord's permission.

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(Chapter IX.—Miscellaneous Provisions as to Landlords and Tenants.—
Secs. 80-82.)

(2) A non-occupancy-raiyat who would, but for the want of his landlord's permission, be entitled to make an improvement in respect of his holding, may, if he desires that the improvement be made, deliver, or cause to be delivered, to his landlord a request in writing calling upon him to make the improvement within a reasonable time; and, if the landlord is unable or neglects to comply with that request, may make the improvement himself.

80. (1) A landlord may, by application to such Revenue-officer as the Local Government may appoint, register any improvement which he has lawfully made or which has been lawfully made at his expense or which he has assisted a tenant in making.

Registration
of landlord's
improvements.

(2) The application shall be in such form, shall contain such information, and shall be verified in such manner, by local inquiry or otherwise, as the Local Government, from time to time, by rule directs.

(3) The officer receiving the application may reject it if it has not been made within twelve months—

- (a) in the case of improvements made before the commencement of this Act—from the commencement of this Act;
- (b) in the case of improvements made after the commencement of this Act—from the date of the completion of the work.

81. (1) If any landlord or tenant of a holding desires that evidence relating to any improvement made in respect thereof be recorded, he may apply to a Revenue-officer, who shall thereupon, at a time and place of which notice shall be given to the parties, record the evidence, unless he considers that there are no reasonable grounds for making the application, or it is made to appear that the subject-matter thereof is under inquiry in a Civil Court.

Application
to record
evidence as to
improvement.

(2) When any matter has been recorded under this section, the record thereof shall be admissible in evidence in every subsequent proceeding between the landlord and tenant or any persons claiming under them.

82. (1) Every raiyat who is ejected from his holding shall be entitled to compensation for improvements which have been made in respect thereof in accordance with this Act by him, or by his predecessor in interest, and for which compensation has not already been paid.

Compensation
for raiyats'
improvements.

(2) Whenever a Court makes a decree or order for the ejectment of a raiyat, it shall determine the amount of compensation (if any) due under this section to the raiyat for improvements, and shall make the decree or order of ejectment conditional on the payment of that amount to the raiyat.

(Chapter 1X.—Miscellaneous Provisions as to Landlords and Tenants.—
Secs. 83, 84.)

(3) No compensation under this section for an improvement shall be claimable where the raiyat has made the improvement in pursuance of a contract or under a lease binding him, in consideration of some substantial advantage to be obtained by him, to make the improvement without compensation, and he has obtained that advantage.

(4) Improvements made by a raiyat between the second day of March 1888, and the commencement of this Act shall be deemed to have been made in accordance with this Act.

(5) The Local Government may, from time to time, by notification in the official Gazette, make rules requiring the Court to associate with itself, for the purpose of estimating the compensation to be awarded under this section for an improvement, such number of assessors as the Local Government thinks fit, and determining the qualifications of those assessors and the mode of selecting them.

Principle on which compensation is to be estimated.

83. (1) In estimating the compensation to be awarded under the last foregoing section for an improvement, regard shall be had—

- (a) to the amount by which the value, of the produce, of the holding, or the value of that produce, is increased by the improvement;
- (b) to the condition of the improvement, and the probable duration of its effects;
- (c) to the labour and capital required for the making of such an improvement;
- (d) to any reduction or remission of rent or any other advantage given by the landlord to the raiyat in consideration of the improvement; and
- (e) in the case of a reclamation or of the conversion of unirrigated into irrigated land, to the length of time during which the raiyat has had the benefit of the improvement at an unenhanced rent.

(2) When the amount of the compensation has been assessed, the Court may, if the landlord and raiyat agree, direct that, instead of being paid wholly in money, it shall be made wholly or partly in some other way.

Acquisition of land for building and other purposes.

Acquisition of land for building and other purposes.

Acquisition of land for building and other purposes.

84. A Civil Court may, on the application of the landlord of a holding, and on being satisfied that he is desirous of acquiring the holding or part

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(Chapter IX.—Miscellaneous Provisions as to Landlords and Tenants.—
Secs. 85, 5.)

thereof for some reasonable and sufficient purpose having relation to the good other purposes.
of the holding or of the estate in which it is comprised, including the use of
the ground as building ground, or for any religious, educational or charitable
purpose,

and on being satisfied on the certificate of the Collector that the purpose
is reasonable and sufficient,

authorise the acquisition thereof by the landlord upon such conditions as the
Court may think fit, and require the tenant to sell his interest in the whole
or such part of the holding to the landlord upon such terms as may be
approved by the Court, including full compensation to the tenant.

Sub-letting.

Sub-letting.

85. (1) If a raiyat sub-lets otherwise than by a registered instrument, Restrictions
the sub-lease shall not be valid against his landlord unless made with the land- on sub-letting.
lord's consent.

(2) A sub-lease by a raiyat shall not be admitted to registration if it pur-
ports to create a term exceeding nine years.

(3) Where a raiyat has, without the consent of his landlord, granted a
sub-lease by an instrument registered before the commencement of this Act,
the sub-lease shall not be valid for more than nine years from the commence-
ment of this Act.

Surrender and abandonment.

*Surrender
and abandon-
ment.*

86. (1) A raiyat not bound by a lease or other agreement for a fixed Surrender.
period may, at the end of any agricultural year, surrender his holding.

(2) But, notwithstanding the surrender, the raiyat shall be liable to indem-
nify the landlord against any loss of the rent of the holding for the agricul-
tural year next following the date of the surrender, unless he gives to his
landlord, at least three months before he surrenders, notice of his intention
to surrender.

(3) When a raiyat has surrendered his holding, the Court shall, in the
following cases for the purposes of sub-section (2), presume, until the contrary
is shown, that such notice was so given, namely:—

- (a) if the raiyat takes a new holding in the same village from the same
landlord during the agricultural year next following the surrender;
- (b) if the raiyat ceases, at least three months before the end of the
agricultural year at the end of which the surrender is made, to
reside in the village in which the surrendered holding is situate.

(Chapter IX.—Miscellaneous Provisions as to Landlords and Tenants.—
Sec. 87.)

(4) The raiyat may, if he thinks fit, cause the notice to be served through the Civil Court within the jurisdiction of which the holding or any portion of it is situate.

(5) When a raiyat has surrendered his holding, the landlord may enter on the holding and either let it to another tenant or take it into cultivation himself.

(6) When a holding is subject to an incumbrance secured by a registered instrument, the surrender of the holding shall not be valid unless it is made with the consent of the landlord and the incumbrancer.

(7) Save as provided in the last foregoing sub-section, nothing in this section shall affect any arrangement by which a raiyat and his landlord may arrange for a surrender of the whole or a part of the holding.

Abandon-
ment.

87. (1) If a raiyat voluntarily abandons his residence without notice to his landlord and without arranging for payment of his rent as it falls due, and ceases to cultivate his holding either by himself or by some other person, the landlord may, at any time after the expiration of the agricultural year in which the raiyat so abandons and ceases to cultivate, enter on the holding and let it to another tenant or take it into cultivation himself.

(2) Before a landlord enters under this section, he shall file a notice in the prescribed form in the Collector's office, stating that he has treated the holding as abandoned and is about to enter on it accordingly; and the Collector shall cause a notice to be published in such manner as the Local Government, by rule, directs.

(3) When a landlord enters under this section, the raiyat shall be entitled to institute a suit for recovery of possession of the land at any time not later than the expiration of two years, or, in the case of a non-occupancy raiyat, six months, from the date of the publication of the notice; and thereupon the Court may, on being satisfied that the raiyat did not voluntarily abandon his holding, order recovery of possession on such terms, if any, with respect to compensation to persons injured and payment of arrears of rent as to the Court may seem just.

(4) Where the whole or part of a holding has been sub-let by a registered instrument, the landlord shall, before entering under this section, on the holding, offer the whole holding to the sub-lessee for the remainder of the term of the sub-lease at the rent paid by the raiyat who has ceased to cultivate the holding, and on condition of the sub-lessee paying up all arrears due from that raiyat. If the sub-lessee refuses or neglects within a reasonable

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(Chapter IX.—Miscellaneous Provisions as to Landlords and Tenants.—
Secs. 88-91.)

time to accept the offer, the landlord may avoid the sub-lease and may enter on the holding and let it to another tenant or cultivate it himself as provided in sub-sections (1) and (2).

Sub-division of tenancy.

Sub-division of tenancy.

[1] 88. A division of a tenure or holding, or distribution of the rent payable in respect thereof, shall not be binding on the landlord unless it is made with his consent in writing.

Division of tenancy not binding on landlord without his consent.

Ejectment.

Ejectment.

89. No tenant shall be ejected from his tenure or holding except in execution of a decree.

No ejectment except in execution of decree.

Measurements.

Measurements.

90. (1) Subject to the provisions of this section and any contract, a landlord may, by himself or by any person authorized by him in this behalf, enter on and measure all land comprised in his estate or tenure, other than land exempt from the payment of revenue.

Landlord's right to measure land.

(2) A landlord shall not, without the consent of the tenant, or the written permission of the Collector, be entitled to measure land more than once in ten years, except in the following cases (namely) :—

- (a) where the area of the tenure or holding is liable, by reason of alluvion or diluvion, to vary from year to year, and the rent payable depends on the area ;
- (b) where the area under cultivation is liable to vary from year to year and the rent payable depends on the area under cultivation ;
- (c) where the landlord is a purchaser otherwise than by voluntary transfer and not more than two years have elapsed since the date of his entry under the purchase.

(3) The ten years shall be computed from the date of the last measurement, whether made before or after the commencement of this Act.

91. (1) Where a landlord desires to measure any land which he is entitled to measure under the last foregoing section, the Civil Court may, on the application of the landlord, make an order requiring the tenant to attend and point out the boundaries of the land.

Power for Court to order tenant to attend and point out boundaries.

[1] S. 88 is not affected by s. 1 of the Bengal Tenancy (Validation and Amendment) Act, 1908 (Ber. Act) of 1908)—see s. 3 of that Act, *post*, p. 288.

(Chapter IX.—Miscellaneous Provisions as to Landlords and Tenants.
Secs. 92-94.)

(2) If the tenant refuses or neglects to comply with the order, a map or other record of the boundaries and measurements of the land prepared under the direction of the landlord at the time when the tenant was directed to attend, shall be presumed to be correct until the contrary is shown.

Standard of
measurement.

92. (1) Every measurement of land by order of a Civil Court, or of a Revenue-officer, in any suit or proceeding between a landlord and tenant, shall be made by the acre, unless the Court or Revenue-officer directs that it be made by any other specified standard.

(2) If the rights of the parties are regulated by any local measure other than the acre, the acre shall be converted into the local measure for the purposes of the suit or proceeding.

(3) The Local Government may, after local inquiry, make rules declaring for any local area the standard or standards of measurement locally in use in that area, and every declaration so made shall be presumed to be correct until the contrary is shown.

Managers.

Managers.

Power to
call upon
co-owners
to show cause
why they
should not
appoint a
common
manager.

[1] 93. When any dispute exists between co-owners of an estate or tenure as to the management thereof, and in consequence there has ensued, or is likely to ensue,

(a) inconvenience to the public, or

(b) injury to private rights,

the District Judge may, on the application in case (a) of the Collector, and in case (b) of any one having an interest in the estate or tenure, direct a notice to be served on all the co-owners, calling on them to show cause why they should not appoint a common manager:

Provided that a co-owner of an estate or tenure shall not be entitled to apply under this section unless he is actually in possession of the interest he claims, and, if he is a co-owner of an estate, unless his name and the extent of his interest are registered under the Land Registration Act, 1876.[2]

Ben. Act 7 of
1876.

Power to
order them to
appoint a
manager if
cause is not
shown.

94. If the co-owners fail to show cause as aforesaid within one month after service of a notice under the last foregoing section, the District Judge may make an order directing them to appoint a common manager, and a copy of the order shall be served on any co-owner who did not appear before it was made.

[1] For notes to s. 93, see the Wards Manual, 1887, pp. 181, 182.

[2] Printed in Vol. IV of this Code.

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(Chapter IX.—Miscellaneous Provisions as to Landlords and Tenants.—
Secs. 95-98.)

95. If the co-owners do not, within such period, not being less than one month after the making of an order under the last foregoing section, as the District Judge may fix in this behalf, or, where the order has been served as directed by that section, within a like period after such service, appoint a common manager and report the appointment for the information of the District Judge, the District Judge may, unless it is shown to his satisfaction that there is a prospect of a satisfactory arrangement being made within a reasonable time,—

Power to appoint manager if order is not obeyed.

- (a) direct that the estate or tenure be managed by the Court of Wards in any case in which the Court of Wards consents to undertake the management thereof; or

- (b) in any case appoint a manager.

96. The Local Government may nominate a person for any local area to manage all estates and tenures within that local area for which it may be necessary to appoint a manager under clause (b) of the last foregoing section; and, when any person has been so nominated, no other person shall be appointed manager under that clause by the District Judge, unless in the case of any estate the Judge thinks fit to appoint one of the co-owners themselves as manager.

Power to nominate person to act in all cases under clause (b) of last section.

97. In any case in which the Court of Wards undertakes under section 95 the management of an estate or tenure, so much of the provisions of the Court of Wards Act, 1879, [1] as relates to the management of immoveable property shall apply to the management.

The Court of Wards Act, 1879, applicable to management by Court of Wards.

98. (1) A manager appointed under section 95 may, if the District Judge thinks fit, be remunerated by a fixed salary or percentage of the money collected by him as manager, or partly in one way and partly in the other, as the District Judge, from time to time, directs.

Provisions applicable to manager.

(2) He shall give such security for the proper discharge of his duties as the District Judge directs.

(3) He shall, subject to the control of the District Judge, have, for the purposes of management, the same powers as the co-owners jointly might but for his appointment have exercised, and the co-owners shall not exercise any such power.

(4) He shall deal with and distribute the profits in accordance with the orders of the District Judge.

[1] Printed in Vol. I of this Code, page 215.

(Chapter IX.—Miscellaneous Provisions as to Landlords and Tenants.—Chapter X.—Record-of-rights and Settlement of Rents.—Part I.—Record-of-rights.—Secs. 99-101).

(5) He shall keep regular accounts, and allow the co-owners or any of them to inspect and take copies of these accounts.

(6) He shall pass his accounts at such period and in such form as the District Judge may direct.

(7) He may make any application which the proprietors could make under section 103.

(8) He shall be removable by the order of the District Judge and not otherwise.

Power to
restore
management
to co-owners.

[1] 99. When an estate or tenure has been placed under the management of the Court of Wards, or a manager has been appointed for the same under section 95, the District Judge may at any time direct that the management of it be restored to the co-owners, if he is satisfied that the management will be conducted by them without inconvenience to the public or injury to private rights.

Power to
make rules.

100. The High Court may, from time to time, make rules [2] defining the powers and duties of managers under the foregoing sections.

[3] CHAPTER X.

RECORD-OF-RIGHTS AND SETTLEMENT OF RENTS.

Part I.—Record-of-rights.

Record-of-
rights.

Power to
order survey
and
preparation of
record-of-
rights.

101. (1) The Local Government may, in any case with the previous sanction of the Governor General in Council, and may, if it thinks fit, without such sanction in any of the cases next hereinafter mentioned, make an order directing that a survey be made and a record-of-rights be prepared, by a

For a note to s. 99, see the Wards Manual, 897, p. 184.

For rules under s. 100, see the High Court's Rules, 1903, Civil, Vol. I, p. 61.

This Chapter was substituted for the original Chapter X by the Bengal Tenancy (Amendment) Act, 1898 (Ben. Act 3 of 1898), s. 7, *post*, p. 41. As regards proceedings under ss. 104, 105 and 106 of the Bengal Tenancy Act, 1885 (8 of 1885), as originally passed, see the Bengal Tenancy (Amendment) Act, 1898 (Ben. Act 3 of 1898), ss. 8, 9, *post*, p. 341.

As to the extension of portions of Ch. X to the Chota Nagpur Division (except the district of Manbhum), with restrictions and modifications, see Vol. V, Part V B (b). For references to the Chapter in the special Acts relating to that Division, see the Chota Nagpur Landlord and Tenant Procedure Act, 1879 (Ben. Act 1 of 1879), ss. 153, 155, 159, 160, 163 and 164, *post*, pp. 401 *et seq.*, and the Chota Nagpur Commutation Act, 1897 (Ben. Act 4 of 1897), s. 2A, *post*, p. 414.

As to surveys and settlements, see the Survey and Settlement Manual, 1900.

Every Deputy Collector making a partition under the Estates Partition Act, 1897 (Ben. Act 5 of 1897), has, as regards the estate under partition, all the powers exercisable by a Revenue-officer employed in preparing a record-of-rights under Chapter X of the present Act—see s. 44 of the former Act, in Vol. IV of this Code.

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(Chapter X.—Record-of-rights and Settlement of Rents.—Part I.—Record-of-rights.—Sec. 102.)

Revenue-officer, in respect of the lands in any local area, estate or tenure or part thereof.

(2) The cases in which an order may be made under this section without the previous sanction of the Governor General in Council are the following, namely :—

- (a) where the landlord or tenants or a large proportion of the landlords or of the tenants apply for such an order and deposit, or give security for such amount for the payment of expenses, as the Local Government directs ;
- (b) where the preparation of such a record is calculated to settle or avert a serious dispute existing or likely to arise between the tenants and their landlords generally ;
- (c) where the local area, estate or tenure or the part thereof belongs to, or is managed by, the Government or the Court of Wards ;
- (d) where a settlement of land-revenue is being or is about to be made in respect of the local area, estate or tenure or of the part thereof.

Explanation 1.—The term “settlement of land-revenue,” as used in clause (d), includes a settlement of rents in an estate or tenure which belongs to the Government.

Explanation 2.—A superior landlord may apply for an order under this section, notwithstanding that his estate or part thereof is temporarily leased to a tenure-holder.

(3) A notification in the official Gazette of an order under this section shall be conclusive evidence that the order has been duly made.

(4) The survey shall be made and the record-of-rights prepared in accordance with rules made in this behalf by the Local Government.

102. Where an order is made under section 101, the particulars to be recorded shall be specified in the order, and may include, either without or in addition to other particulars, some or all of the following, namely :—

Particulars to be recorded.

- (a) the name of each tenant or occupant
- (b) the class to which each tenant belongs, that is to say, whether he is a tenure-holder, raiyat holding at fixed rates, settled raiyat, occupancy-raiyat, non-occupancy- raiyat or under-raiyat, and, if he is a tenure-holder, whether he is a permanent tenure-holder or not, and whether his rent is liable to enhancement during the continuance of his tenure ;
- (c) the situation and quantity and one or more of the boundaries of the land held by each tenant or occupant
- (d) the name of each tenant's landlord ;

(Chapter X.—Record-of-rights and settlement of Rents.—Part I.—Record-of-rights.—secs. 103-103B.)

- (e) the rent payable at the time the record-of-rights is being prepared ;
- (f) the mode in which that rent has been fixed—whether by contract, by order of a Court, or otherwise ;
- (g) if the rent is a gradually increasing rent, the time at which, and the steps by which, it increases ;
- (h) the special conditions and incidents, if any, of the tenancy ;
- (i) if the land is claimed to be held rent-free—whether or not rent is actually paid, and, if not paid, whether or not the occupant is entitled to hold the land without payment of rent, and if so entitled, under what authority.

Power for Revenue-officer to record particulars on application of proprietor, tenure-holder or large proportion of raiyats.

103. On the application of one or more of the proprietors or tenure-holders, or of a large proportion of the raiyats, of an estate or tenure, and on the applicant or applicants depositing or giving security for the required amount for expenses, a Revenue-officer may, subject to and in accordance with, rules made in this behalf by the Local Government, ascertain and record all or any of the particulars specified in section 102 with respect to the estate or tenure or any part thereof.

Preliminary publication, amendment, and final publication of record-of-rights.

103A. (1) When a draft record-of-rights has been prepared, the Revenue-officer shall publish the draft in the prescribed manner and for the prescribed period, and shall receive and consider any objections which may be made to any entry therein, or to any omission therefrom, during the period of publication.

(2) When such objections have been considered and disposed of according to such rules as the Local Government may prescribe, and (if a settlement of land-revenue is being or is about to be made) the Settlement Rent Roll has been incorporated with the record under section 104F, sub-section (3), the Revenue-officer shall finally frame the record, and shall cause it to be finally published in the prescribed manner ; and publication shall be conclusive evidence that the record has been duly made under this Chapter.

(3) Separate draft or final records may be published under sub-section (1) or sub-section (2) for different local areas, estates, tenures or parts thereof.

Presumption as to correctness of record-of-rights.

103B. A certificate signed by the Revenue-officer, stating that a record-of-rights has been finally published under this Chapter, shall be conclusive evidence of such publication ; and every entry in a record-of-rights so published shall be presumed to be correct until the contrary is proved.

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(Chapter X.—Record-of-rights and Settlement of Rents.—Part II.—Settlement of Rents, preparation of Settlement Rent Roll, and decision of disputes in cases where a settlement of land-revenue is being or is about to be made.—Secs. 104, 104A.)

Part II.—Settlement of Rents, preparation of Settlement Rent Roll, and decision of disputes in cases where a settlement of land-revenue is being or is about to be made.

104. In every case in which settlement of land-revenue is being or is about to be made, the Revenue-officer shall, after publication of the draft of the record-of-rights under section 13A, sub-section (1),—

Settlement of rents and preparation of Settlement Rent Roll when to be undertaken by Revenue-officer.

(a) settle fair and equitable rents for tenants of every class,

(b) notwithstanding anything contained in section 192, settle a fair and equitable rent for any land in respect of which he has recorded, in pursuance of clause (i) of section 102, that the occupant is not entitled to hold it without payment of rent, and

(c) prepare a Settlement Rent Roll.

104A. (1) For the purposes of settling rents under this Part and preparing a Settlement Rent Roll, the Revenue-officer may proceed in any one or more of the following ways or partly in one of those ways and partly in another, that is to say,—

Procedure for settlement of rents and preparation of Settlement Rent Roll under this Part.

(a) if in any case the landlord and tenant agree between themselves as to the amount of the rent fairly and equitably payable, the Revenue-officer shall satisfy himself that the rent so agreed upon is fair and equitable, and if he is so satisfied, but not otherwise, it may be settled and recorded as the fair and equitable rent ;

(b) the Revenue-officer may himself propose what he deems to be the fair and equitable rent, and if the amount so proposed is accepted, either orally or in writing, by the tenant, and if the landlord, after notice to attend, raises no objection, the rent so proposed may be settled and recorded as the fair and equitable rent ;

(c) if the circumstances are, in the opinion of the Revenue-officer, such as to make it practicable to prepare a Table of Rates showing for any local area, estate, tenure or village or part thereof, or for each class of land in any local area, estate, tenure or village or part thereof, the rate or rates of rent fairly and equitably payable by tenure-holders and raiyats and under-raiyats of each class, he may frame a Table of Rates and settle and record all or any of the rents on the basis of such rates in the manner hereinafter described ;

(Chapter X.—Part II.—Settlement. Rents, preparation of Settlement Rent Roll, and decision of disputes in cases where a settlement of land-revenue is being or is about to be made.—Sec. 104B.)

(a) the Revenue-officer may settle all or any of the rents by maintaining the existing rentals recorded in the record-of-rights as published under section 103A, sub-section (1), or by enhancing or reducing such rentals: Provided that in making any such settlement regard shall be had to the principles laid down in sections 6 to 9 (both inclusive), 27 to 36 (both inclusive), 38, 39, 43, 50 to 52 (both inclusive), 180 and 191.

(2) The Settlement Rent Roll shall show the name of each landlord and of each tenant whose rent has been settled, and the amount of each such tenant's rent payable for the area shown against his name.

Contents of
Table of
Rates.

104B. (1) If a Table of Rates is prepared, it shall specify—

- (a) the class or several classes of land for which, having regard to the nature of the soil, situation, means of irrigation, and other like considerations, it is in the opinion of the Revenue-officer necessary or practicable to fix a rate or different rates of rent; and
- (b) the rate or rates of rent fairly and equitably payable by tenants holding land of each such class whose rent is liable to alteration.

Local publi-
cation of
Table.

(2) When the Revenue-officer has prepared the Table of Rates, he shall publish it in the local area, estate, tenure or village to which it relates, in the vernacular language prevailing in the district, and in the prescribed manner.

Revenue-
officer to deal
with objec-
tions.

(3) Any person objecting to any entry in the Table of Rates may present a petition to the Revenue-officer within a period of one month after such publication, and the Revenue-officer shall consider any such objection and may alter or amend the Table.

Table to be
submitted to
superior
Revenue
authority.

(4) If no objection is made within the said period of one month, or, where objections are made, after they have been disposed of, the Revenue-officer shall submit his proceedings to the Revenue-authority empowered by rule made by the Local Government to confirm the Tables and Rent Rolls prepared under this Part (hereinafter called the "confirming authority"), with a full statement of the grounds of his proposals, and shall forward any petitions of objection which he may have received.

Proceedings
of confirming
authority.

(5) The confirming authority may confirm a Table submitted under sub-section (4), or may disallow the same, or may amend the same in any manner which appears to it proper, and may allow whole or in part any objection forwarded therewith or subsequently made, may return the case for further inquiry.

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(Chapter X.—Part II.—Settlement of Rents, preparation of Settlement Rent Roll and decision of disputes in cases where a settlement of land-revenue is being or is about to be made.—Secs. 104C-104F.)

(6) When a Table of Rates has been confirmed by the confirming authority, the order confirming it shall be conclusive evidence that the proceedings for the preparation of the Table have been duly conducted in accordance with this Act; and it may be presumed that the rates shown in the Table for tenants of each class for each class of land, are the fair and equitable rates payable for land of that class within the area to which the Table applies.

Effect of Table.

104C. When a Table of Rates has been confirmed under section 104B, sub-section (5), the Revenue-officer may settle all or any of the rents and prepare the Settlement Rent Roll on the basis of the rates shown in the Table by calculating the rental of each tenure or each holding of a raiyat or under-raiyat on the area of such tenure or holding at the said rates:

Application of Table of Rates.

Provided that the Revenue-officer shall not be bound to apply the said rates in any particular case in which he may consider it unfair or inequitable to do so.

104D. In framing a Table of Rates under section 104B, and in settling rents under section 104C, the Revenue-officer shall be guided by such rules as the Local Government may make in this behalf, and shall, so far as may be, and subject to the proviso to the said section 104C, have regard to the general principles of this Act regulating the enhancement or reduction of rents.

Rules and principles to be followed in framing Table of Rates and settling rents in accordance therewith.

104E. (1) When a Settlement Rent Roll for a local area, estate, tenure or village or part thereof has been prepared, the Revenue-officer shall cause a draft of it to be published in the prescribed manner and for the prescribed period, and shall receive and consider any objections made to any entry therein, or omission therefrom, during the period of publication, and shall dispose of such objections according to such rules as the Local Government may prescribe.

Preliminary publication and amendment of Settlement Rent Roll.

(2) The Revenue-officer may, of his own motion or on the application of any party aggrieved, at any time before a Settlement Rent Roll is submitted to the confirming authority under section 104F, revise any rent entered therein:

Provided that no such entry shall be revised until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

104F. (1) When all objections have been disposed of under section 104E, the Revenue-officer shall submit the Settlement Rent Roll to the confirming

Final revision of Settlement Rent Roll

(Chapter X.—Part II.—Settlement of Rents, preparation of Settlement Rent Roll and decision of disputes in cases where a settlement of land-revenue is being or is about to be made.—Secs. 104G, 104H.)

and incorporation of the same in the record-of-rights.

authority with a full statement of the grounds of his proposals and a summary of the objections (if any) which he has received.

(2) The confirming authority may sanction the Settlement Rent Roll, with or without amendment, or may return it for revision :

Provided that no entry shall be amended, or omission supplied, until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

(3) After sanction by the confirming authority, the Revenue-officer shall finally frame the Settlement Rent Roll and shall incorporate it with the record-of-rights published in draft under section 103A.

Appeal to, and revision by, superior Revenue authorities.

104G. (1) An appeal, if presented within two months from the date of the order appealed against, shall lie from every order passed by a Revenue-officer prior to the final publication of the record-of-rights on any objection made under section 104B, sub-section (3) or section 104E; and such appeal shall lie to such superior Revenue-authority as the Local Government may by rule prescribe.

(2) The Board of Revenue may, in any case under this Part, on application or of its own motion, direct the revision of any record-of-rights, or any portion of a record-of-rights, at any time within two years from the date of the certificate of final publication, but not so as to affect any order passed by a Civil Court under section 104H :

Provided that no such direction shall be made until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

Jurisdiction of Civil Courts in matters relating to rent.

104H. (1) Any person aggrieved by an entry of a rent settled in a Settlement Rent Roll prepared under sections 104A to 104F and incorporated in a record-of-rights finally published under section 103A, or by an omission to settle a rent for entry in such Settlement Rent Roll, may institute a suit in the Civil Court which would have jurisdiction to entertain a suit for the possession of the land to which the entry related or in respect of which the omission was made.

(2) Such suit must be instituted within six months from the date of the certificate of final publication of the record-of-rights, or, if an appeal has been presented to a Revenue authority under section 104G, then within six months from the date of the disposal of such

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(Chapter X.—Part II.—Settlement of Rents, preparation of Settlement Rent Roll and decision of disputes in cases where a settlement of land-revenue is being or is about to be made.—Sec. 104H.)

(3) Such suit may be instituted on any of the following grounds, and on no others, namely :

- (a) that the land is not liable to the payment of rent ;
- (b) that the land, although entered in the record-of-rights as being held rent-free, is liable to the payment of rent ;
- (c) that the relation of landlord and tenant does not exist ;
- (d) that land has been wrongly recorded as part of a particular estate or tenancy, or wrongly omitted from the lands of an estate or tenancy ;
- (e) that the tenant belongs to a class different from that to which he is shown in the record-of-rights as belonging ;
- (f) that the Revenue-officer has not postponed the operation of the settled rent under the provisions of section 110, clause (a), or has wrongly fixed the date from which it is to take effect under that clause ;
- (g) that the special conditions and incidents of the tenancy have not been recorded or have been wrongly recorded.

The Secretary of State for India in Council shall not be made a defendant in any such suit unless the Government is landlord or tenant of the land to which the aforesaid entry relates or in respect of which the aforesaid omission was made.

(4) If it appears to the Court that the entry of rent settled is incorrect, it shall, in case (a) or case (c) mentioned in sub-section (3), declare that no rent is payable, and shall in any other case settle a fair rent ;

and, in any case referred to in clause (f) or clause (g) of the said sub-section (3), the Court may declare the date from which the rent settled is to take effect, or pass such order relating to the entry as it may think fit.

(5) When the Court has declared under sub-section (4) that no rent is payable, the entry to the contrary effect in the record-of-rights shall be deemed to be cancelled.

(6) In settling a fair rent under sub-section (4) the Court shall be guided by the rents of the other tenures or holdings of the same class comprised in the same Settlement Rent Roll, as settled under sections 104A to 104F.

(7) Any rent settled by the Court under sub-section (4) shall be deemed to have been duly settled in place of the rent entered in the Settlement Rent Roll.

(Chapter X.—Part II.—Settlement of Rents, reparation of Settlement Rent Roll and decision of disputes in cases where a settlement of land-revenue is being or is about to be made.—Part I.—Settlement of Rents and decision of disputes in cases where a settlement of land-revenue is not being or is not about to be made.—Secs. 104J, 105.)

(8) Save as provided in this section, no suit shall be brought in any Civil Court in respect of the settlement of any rent the omission to settle any rent under sections 104A to 104F.

(9) When a Civil Court has passed final orders or a decree under this section, it shall notify the same to the Collector of the district.

Presumptions
as to rents
settled under
sections 104A
to 104G.

104J. Subject to the provisions of section 104H, all rents settled under sections 104A to 104F and entered in a record-of-rights finally published under section 103A, or settled under section 104G, shall be deemed to have been correctly settled and to be fair and equitable rents within the meaning of this Act.

Part III.—Settlement of Rents and decision of disputes in cases where a settlement of land-revenue is not being or is not about to be made.

Settlement of
rents by
Revenue-offi-
cer in cases
where a settle-
ment of land-
revenue is not
being or is
not about to
be made.

105. (1) When, in any case in which a settlement of land-revenue is not being made or is not about to be made, either the landlord or the tenant applies, within two months from the date of the certificate of the final publication of the record-of-rights under section 103A, sub-section (2), for a settlement of rent, the Revenue-officer shall settle a fair and equitable rent in respect of the land held by the tenant.

Explanation.—A superior landlord may apply for a settlement of rent notwithstanding that his estate or tenure or part thereof has been temporarily leased.

(2) When, in any case in which a settlement of land-revenue is not being made or is not about to be made, the Revenue-officer has recorded, in pursuance of clause (i) of section 102, that the occupant of any land claimed to be held rent-free is not entitled to hold it without payment of rent, and either the landlord or the occupant applies, within two months from the date of the certificate of the final publication of the record-of-rights under section 103A, sub-section (2) for a settlement of rent, the Revenue-officer shall settle a fair and equitable rent for the land.

(3) Every application under sub-section (1) or sub-section (2) shall, notwithstanding anything contained in the Court-fees Act, 1870, [1] bear such stamp as the Government of India may, from time to time, prescribe by notification in the Gazette of India. 7 of 1870

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THE BENGAL TENANCY ACT, 1885.

(Chapter X.—Part III.—Settlement of Rents and decision of disputes in cases where a settlement of land-revenue is not being or is not about to be made.—Secs. 106, 107.)

(4) In settling rents under this section, the Revenue-officer shall presume, until the contrary is proved, that the existing rent is fair and equitable, and shall have regard to the rules laid down in this Act for the guidance of the Civil Court in increasing or reducing rents, as the case may be.

(5) The Revenue-officer may in any case under this section propose to the parties such rents as he considers fair and equitable; and the rents so proposed, if accepted orally or in writing by the parties, may be recorded as the fair rents, and shall be deemed to have been duly settled under this Act.

(6) Where the parties agree among themselves, by compromise or otherwise, as to the amount of the fair rent, the Revenue-officer shall satisfy himself that the amount agreed upon is fair and equitable, and, if so satisfied, but not otherwise, he shall record the amount so agreed upon as the fair and equitable rent. If not so satisfied, he shall himself settle a fair and equitable rent as provided in sub-sections (4) and (5).

[1] 106. In proceedings under this Part, a suit may be instituted before a Revenue-officer at any time within three months from the date of the certificate of the final publication of the record-of-rights under sub-section (2) of section 103A of this Act, by presenting a plaint on stamped paper, for the decision of any dispute regarding any entry which a Revenue-officer has made in, or any omission which the said officer has made from, the record, whether such dispute be between landlord and tenant, or between landlords of the same or of neighbouring estates, or between tenant and tenant, or as to whether the relationship of landlord and tenant exists or as to whether land held rent-free is properly so held, or as to any other matter, and the Revenue-officer shall hear and decide the dispute :

Institution of suit before a Revenue-officer.

Provided that the Revenue-officer may, subject to such rules as the Local Government may prescribe in this behalf, transfer any particular case or class of cases to a competent Civil Court for trial.

107. (1) In all proceedings for the settlement of rents under this Part, and in all proceedings under section 106, the Revenue-officer shall, subject to rules made by the Local Government under this Act, adopt the procedure laid down in the Code of Civil Procedure [2] for the trial of suits; and his

Procedure to be adopted by Revenue-officer.

14 of 1882.

[1] This section was substituted for the original s. 106 by the Bengal Tenancy (Validation and Amendment) Act, 1908 (Ben. Act 1 of 1908), s. 4, printed part, p. 244.

[2] Printed in the General Acts, 1862-84, Ed. 1893, page 244.

(Chapter X,—Part III,—Settlement of Rents and decision of disputes in cases where a settlement of land-revenue is not being or is not about to be made,—Secs. 108-109A.)

decision in every such proceeding shall have the force and effect of a decree of a Civil Court in a suit between the parties, and, subject to the provisions of sections 108 and 109A, shall be final.

(2) A note of all rents settled and of all decisions of disputes by the Revenue-officer under section 105 or section 106 shall be made by him in the record-of-rights finally published under section 103A, sub-section (2), and such note shall be considered as part of the record.

Revision by
Revenue-
officer.

108. Any Revenue-officer especially empowered by the Local Government in this behalf, may, on application or of his own motion, within twelve months from the making of any order or decision under section 105, section 106 or section 107, revise the same, whether it was made by himself or by any other Revenue-officer, but not so as to affect any order passed or decree made under section 109A :

Provided that no such order or decision shall be so revised if an appeal from it is pending under section 109A or until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

Bar to
jurisdiction
of Civil
Courts.

109. Subject to the provisions of section 109A, a Civil Court shall not entertain any application or suit concerning any matter which is or has already been the subject of an application made or suit instituted under section 105, section 106, section 107 or section

Appeals from
decisions of
Revenue-
officers.

109A. (1) The Local Government shall appoint one or more persons to be a Special Judge or Special Judges for the purpose of hearing appeals from the decisions of Revenue-officers under sections 105 to 108 (both inclusive).

(2) An appeal shall lie to the Special Judge from the decisions of a Revenue-officer under sections 105 to 108 (both inclusive), and the provisions of the Code of Civil Procedure [1] relating to appeals shall, as nearly as may be, apply to all such appeals.

(3) Subject to the provisions of Chapter XLII of the Code of Civil Procedure, [1] an appeal shall lie to the High Court from the decision of a Special Judge in any case under this section (not being a decision settling a rent) as if he were a Court subordinate to the High Court within the meaning of the first section of that Chapter :

Provided that, if in a second appeal the High Court alters the decision of the Special Judge in respect of any of the particulars with reference to which

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(Chapter X.—Part IV.—Supplemental Provisions.—Secs. 110-111 A.)

the rent of any tenure or holding has been settled, the Court may settle a new rent for the tenure or holding, but in so doing shall be guided by the rents of the other tenures or holdings of the same class comprised in the same record as ascertained under section 102 or settled under section 105 or section 108.

• *Part IV.—Supplemental Provisions.*

110. When a rent is settled by a Revenue-officer under this Chapter, it shall take effect from the beginning of the agricultural year next after the date of the decision fixing the rent or (if a settlement of land-revenue is being or is about to be made) the date of final publication of the Settlement Rent Roll :

Date from which settled rent takes effect.

Provided as follows :—

- (a) if the land is comprised in an area, estate or tenure in respect of which a settlement of land-revenue is being or is about to be made, the rent settled shall, subject to the provisions of sections 191 and 192, take effect from the expiration of the period of the current settlement, or from such other date after the expiration of that period as may be fixed by the Revenue-officer ;
- (b) if the land is not comprised in an area, estate or tenure as aforesaid, and if the existing rent has been fixed by a contract binding between the parties for an unexpired term of years, the rent settled shall take effect from the expiration of that term, or from such other date after the expiration of that term as may be fixed by the Revenue-officer.

111. When an order has been made under section 101, directing the preparation of a record-of-rights, then, subject to the provisions of section 104H, a Civil Court shall not,—

Stay of proceedings in Civil Court during preparation of record-of-rights.

- (a) where a settlement of land-revenue is being or is about to be made—until after the final publication of the record-of-rights, and
- (b) where a settlement of land-revenue is not being made or is not about to be made—until three months after the final publication of the record-of-rights,

entertain any suit or application for the alteration of the rent or the determination of the status of any tenant in the area to which the record-of-rights applies.

111A. No suit shall be brought in any Civil Court in respect of any order directing the preparation of a record-of-rights under this Chapter

Limitation of Jurisdiction of Civil

Courts in matters, other than rent, relating to record-of-rights.

or in respect of the framing, publication, signing or attestation of such a record or of any part of it, or, save as provided in section 104H, for the alteration of any entry in such a record of a rent settled under sections 104A to 104F:

Provided that any person who is dissatisfied with any entry in, or omission from, a record-of-rights framed in pursuance of an order made under section 101, sub-section (2), clause (d), which concerns a right of which he is in possession, may institute a suit for declaration of his right under Chapter VI [1] of the Specific Relief Act, 1877.

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Power to authorise special settlement in special cases.

112. (1) The Local Government, with the previous sanction of the Governor General in Council, may on being satisfied that the exercise of the powers hereinafter mentioned is necessary in the interests of public order or of the local welfare, invest a Revenue-officer acting under this Chapter with the following powers or either of them, namely:—

(a) power to settle all rents;

(b) power, when settling rents, to reduce rents if, in the opinion of the officer, the maintenance of existing rents would on any ground, whether specified in this Act or not, be unfair or inequitable.

(2) The powers given under this section may be made exerciseable within a specified area either generally or with reference to specified cases or classes of cases.

(3) When the Local Government takes any action under this section, the settlement-record prepared by the Revenue officer shall not take effect until it has been finally confirmed by the Governor General in Council.

Period for which rents so settled are to remain unaltered.

113. (1) When the rent of a tenure or holding is settled under this Chapter, it shall not, except on the ground of a landlord's improvement or of a subsequent alteration in the area of the tenure or holding, be enhanced, in the case of a tenure or an occupancy-holding or the holding of an under-raiyat having occupancy rights, for fifteen years, and, in the case of a non-occupancy holding or the holding of an under-raiyat not having occupancy rights, for five years; and no such rent shall be reduced within the periods aforesaid save on the ground of alteration in the area of the holding or on the ground specified in section 88, clause (a).

(2) The said periods of fifteen years and five years shall be counted from the date on which the rent settled takes effect under this Chapter.

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(Chapter X.—Part IV.—Supplemental Provisions. Chapter XI.—Record of Proprietors' Private Lands.—Secs. 114-118.)

114. (1) When the preparation of a record-of-rights has been directed or undertaken under this Chapter, in any case except where a settlement of land-revenue is being or is about to be made, the expenses incurred by the Government in carrying out the provisions of this Chapter in any local area, estate, tenure or part thereof (including expenses that may be incurred from time to time in the maintenance of boundary marks and other survey marks erected for the purpose of carrying out the provisions of this Chapter), or such part of those expenses as the Local Government may direct, shall be defrayed by the landlords, tenants and occupants of land in that local area, estate, tenure or part in such proportions as the Local Government, having regard to all the circumstances, may determine.

Expenses of proceedings under Chapter.

(2) The portion of the aforesaid expenses which any person is liable to pay shall be recoverable by the Government as if it were an arrear of land-revenue due in respect of the said local area, estate, tenure or part. [1]

Explanation.—The word "tenure" in this section includes all revenue-free and rent-free tenures and holdings within a local area, estate or tenure.

115. When the particulars mentioned in section 102, clause (b), have been recorded under this Chapter in respect of any tenancy, the presumption under section 50 shall not thereafter apply to that tenancy.

Presumption as to fixity of rent not to apply where record-of-rights has been prepared.

CHAPTER XI.

RECORD OF PROPRIETORS' PRIVATE LANDS.

116. Nothing in Chapter V shall confer a right of occupancy in, and nothing in Chapter VI shall apply to, a proprietor's private lands known in Bengal as khamar, nij or nijjot, and in Bihár as ziráat, nij, sir or khamat, where any such land is held under a lease for a term of years or under a lease from year to year.

Saving as to khamar land.

117. The Local Government may, from time to time, make an order directing a Revenue-officer to make a survey and record of all the lands in a specified local area which are a proprietor's private lands within the meaning of the last foregoing section.

Power for Government to order survey and record of proprietor's private lands. Power for Revenue-officer to record

118. In the case of any land alleged to be a proprietor's private land, on the application of the proprietor or of any tenant of the land, and on his

[1] For an alternative method of recovering expenses, see the Land Records Maintenance Act, 1895 (Ben. Act 3 of 1895), ss. 28 to 32 and 36 (e), in Vol. IV of this Code.

(Chapter XI.—Record of Proprietors' Private Lands.—Chapter XII.—Distraint.—Secs. 119-121.)

private land on application of proprietor or tenant.

depositing the required amount for expenses, a Revenue-officer may, subject to, and in accordance with, rules made in this behalf by the Local Government, ascertain and record whether the land is or is not a proprietor's private land.

Procedure for recording private land.

119. When a Revenue-officer proceeds under either of the two last foregoing sections, the provisions of [1] [sections 108A, 108B, 106, 107, 108, 109 and 109A] shall apply.

Rules for determination of proprietor's private land.

120. (1) The Revenue-officer shall record as a proprietor's private land—

- (a) land which is proved to have been cultivated as khamar, zirâat, sir, nij, nijjot or kamat by the proprietor himself with his own stock or by his own servants or by hired labour for twelve continuous years immediately before the passing of this Act, and
- (b) cultivated land which is recognized by village usage as proprietor's khamar, zirâat, sir, nij, nijjot or kamat.

(2) In determining whether any other land ought to be recorded as a proprietor's private land, the officer shall have regard to local custom, and to the question whether the land was before the second day of March, 1883, specifically let as proprietor's private land, and to any other evidence that may be produced; but shall presume that land is not a proprietor's private land until the contrary is shown.

(3) If any question arises in a Civil Court as to whether land is or is not a proprietor's private land, the Court shall have regard to the rules laid down in this section for the guidance of Revenue-officers.

CHAPTER XII. [2]

DISTRAINT.

Cases in which an application for distraint may be made.

121. Where an arrear of rent is due to the landlord of a raiyat or under-raiyat, and has not been due for more than a year, and no security has been accepted therefor by the landlord, the landlord may, in addition to any other remedy to which he is entitled by law, present an application to the

[1] These words and figures in square brackets in s. 119 were substituted for the words and figures "sections 105 to 109, both inclusive," by the Bengal Tenancy (Amendment) Act, 1898 (Ben. Act 3 of 1898), s. 10, *post*, p. 342.

[2] The word "rent" in Ch. XII includes also money recoverable under any enactment for the time being in force as if it was rent—*see* s. 3 (5), *ante*, p. 254.

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(Chapter XII.—Distraint.—Sec. 122.)

Civil Court requesting the Court to recover the arrear by distraining, while in the possession of the cultivator,—

- (a) any crops or other products of the earth standing or ungathered on the holding ;
- (b) any crops or other products of the earth which have been grown on the holding and have been reaped or gathered and are deposited on the holding or on a threshing-floor or place for treading out grain, or the like, whether in the fields or within a homestead ;

Provided that an application shall not be made under this section—

Ben. Act 7 of
1876.

- (1) by a proprietor or manager as defined under the Land Registration Act, 1876, [1] or a mortgagee of such a proprietor or manager, unless his name and the extent of his interest in the land in respect of which the arrear is due have been registered under the provisions of that Act ; or
- (2) for the recovery of any sum in excess of the rent payable for the holding in the preceding agricultural year, unless that sum is payable under a written contract in consequence of a proceeding under this Act or an enactment hereby repealed ; or
- (3) in respect of the produce of any part of the holding which the tenant has sub-let with the written consent of the landlord.

122. (1) Every application under the last foregoing section shall specify— Form of application.

- (a) the holding in respect of which the arrear is claimed, and the boundaries thereof, or such other particulars as may suffice for its identification ;
- (b) the name of the tenant ;
- (c) the period in respect of which the arrear is claimed ;
- (d) the amount of the arrear, with the interest if any, claimed thereon and, when an amount in excess of the rent payable by the tenant in the last preceding agricultural year is claimed, the contract or proceeding, as the case may be, under which that amount is payable ;
- (e) the nature and approximate value of the produce to be distrained ;
- (f) the place where it is to be found, or such other particulars as may suffice for its identification ; and
- (g) if it is standing or ungathered, the time at which it is likely to be cut or gathered.

[1] Printed in Vol. IV of this Code.

Procedure on
receipt of
application.

(2) The application shall be signed and verified in the manner prescribed by the Code of Civil Procedure [1] for signing and verification of plaints. 14 of 1882.

123. (1) The applicant shall, at the time of filing an application under the foregoing sections, file in Court such documentary evidence (if any) as he may consider necessary for the purposes of the application.

(2) The Court may, if it thinks fit, examine the applicant, and shall, with as little delay as possible, admit the application or reject it, or permit the applicant to furnish additional evidence in support of it.

(3) Where a Court cannot forthwith admit or reject an application under sub-section (2), it may, if it thinks fit, make an order prohibiting the removal of the produce specified in the application pending the execution of an order for distraining the same or the rejection of the application.

(4) When an order for distraining any produce is made under this section at a considerable time before the produce is likely to be cut or gathered, the Court may suspend the execution of the order for such time as it thinks fit, and may, if it thinks fit, make a further order prohibiting the removal of the produce pending the execution of the order for distraint.

Execution of
order for
distrain.

124. If an application is admitted under the last foregoing section the Court shall depute an officer to distrain the produce specified therein, or such portion of that produce as it thinks fit; and the officer shall proceed to the place where the produce is, and distrain the produce by taking charge of it himself or placing some other person in charge of it in his behalf, and publishing a notification of the distraint in accordance with rules to that effect to be made by the High Court:

Provided that produce which from its nature does not admit of being stored shall not be distrained under this section at any time less than twenty days before the time when it would be fit for reaping or gathering.

Service of
demand and
account.

125. (1) The distraining officer shall, at the time of making the distraint, serve on the defaulter a written demand for the arrear due, and the costs incurred in making the distraint, with an account exhibiting the grounds on which the distraint is made.

(2) Where the distraining officer has reason to believe that a person other than the defaulter is the owner of the property distrained, he shall serve copies of the demand and account on that person likewise.

(3) The demand and account shall, if practicable, be served personally;

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(Chapter XII.—Distrainment.—Secs. 126-129.)

but, if a person on whom they are to be served absconds or conceals himself or cannot otherwise be found, the officer shall affix copies of the demand and account on a conspicuous part of the outside of the house in which he usually resides.

126. (1) A distraint under this Chapter shall not prevent any person from reaping, gathering or storing any produce, or doing any other act necessary for its due preservation. Right to reap, etc., produce.

(2) If the person entitled to do so fails to do so at the proper time, the distraining officer shall cause any standing crops or ungathered products distrained to be reaped or gathered when ripe, and stored in such granaries or other places as are commonly used for the purpose, or in some other convenient place in the neighbourhood, or shall do whatever else may be necessary for the due preservation of the same.

(3) In either case the distrained property shall remain in the charge of the distraining officer, or of some other person appointed by him in this behalf.

127. (1) Unless the demand, with all costs of the distraint, be immediately satisfied, the distraining officer shall issue a proclamation specifying the particulars of the property distrained, and the demand for which it is distrained, and notifying that he will, at a place and on a day specified, not being less than three or more than seven days after the time of making the distraint, sell the distrained property by public auction : Sale-proclamation to be issued unless demand is satisfied.

Provided that when the crops or products distrained from their nature admit of being stored, but have not yet been stored, the day of the sale shall be so fixed as to admit of their being made ready for storing before its arrival.

(2) The proclamation shall be stuck up on a conspicuous place in the village in which the land is situate for which the arrears of rent are claimed.

128. The sale shall be held at the place where the distrained property is, or at the nearest place of public resort if the distraining officer is of opinion that it is likely to sell there to better advantage. Place of sale.

129. (1) Crops or products which from their nature admit of being stored shall not be sold before they are reaped or gathered and are ready for storing. When produce may be sold standing.

(2) Crops or products which from their nature do not admit of being stored may be sold before they are reaped or gathered, and the purchaser shall be entitled to enter on the land by himself, or by any person appointed by

him in this behalf, and do all that is necessary for the purpose of tending and reaping or gathering them.

Manner of

130. The property shall be sold by public auction, in one or more lots as the officer holding the sale may think advisable; and if the demand, with the by the sale of a portion of the property the distraint shall be immediately withdrawn with respect to the remainder.

Postponement of sale.

131. If, on the property being put up for sale, a fair price (in the estimation of the officer holding the sale) is not offered for it, and if the owner of the property, or a person authorized to in his behalf, applies to have the sale postponed till the next day, or (if market is held at the place of sale) the next market-day, the sale shall be postponed until that day, and shall be then completed, whatever price may be of for the property.

Payment of purchase-money.

132. The price of every lot shall be paid at the time of sale, or as soon thereafter as the officer holding the sale directs, and in default of such payment the property shall be put up again and sold.

Certificate to be given to purchaser.

133. When the purchase-money has been paid in full, the officer holding the sale shall give the purchaser a certificate describing the property purchased by him and the price paid.

Proceeds of sale how to be applied.

134. (1) From the proceeds of every sale of distrained property under this Chapter, the officer holding the sale shall pay the costs of the distraint and sale, calculated on a scale of charges prescribed by rules to be made, from time to time, by the Local Government in this behalf.

(2) The remainder shall be applied to the discharge of the arrear for which the distress was made, with interest thereon up to the day of sale; and the surplus (if any) shall be paid to the person whose property has been sold.

Certain persons may not purchase.

135. Officers holding sales of property under this Act, and all persons employed by, or subordinate to, such officers, are prohibited from purchasing, either directly or indirectly, any property sold by such officers.

Procedure where demand is paid before the sale.

136. (1) If at any time after a distraint has been made under this Chapter, and before the sale of the distrained property, the defaulter, or the owner of the distrained property, where he is not the defaulter, deposits in the Court issuing the order of distraint, or in the hands of the distraining officer, the amount specified in the demand served under section 125, with all costs which may have been incurred after the service of the demand, the Court or officer, as the case may be, shall grant a receipt for the same, and the distraint shall forthwith be withdrawn.

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(Chapter XII.—Distraint.—Secs. 137-140.)

(2) When the distraining officer receives the deposit, he shall forthwith pay it into the Court.

(3) A receipt granted under this section to an owner of distrained property not being the defaulter, shall afford a full protection to him against any subsequent claim for the arrears of rent on account of which the distraint was made.

(4) After the expiration of one month from the date of a deposit being made under this section, the Court shall pay therefrom to the applicant for distraint the amount due to him, unless in the meanwhile the owner of the property distrained has instituted a suit against the applicant contesting the legality of the distraint and claiming compensation in respect of the same.

(5) A landlord shall not be deemed to have consented to his tenant's sub-letting the holding or any part thereof merely by reason of his having received an amount deposited under this section by an inferior tenant.

137. (1) When an inferior tenant, on his property being lawfully distrained under this Chapter for the default of a superior tenant, makes any payment under the last foregoing section, he shall be entitled to deduct the amount of that payment from any rent payable by him to his immediate landlord, and that landlord, if he is not the defaulter, shall in like manner be entitled to deduct the amount so deducted from any rent payable by him to his immediate landlord, and so on until the defaulter is reached.

Amount paid by under-tenant for his lessor may be deducted from rent.

(2) Nothing in this section shall affect the right of an inferior tenant making a payment under the last foregoing section to institute a suit for the recovery from the defaulter of any portion of the amount paid which he has not deducted under this section.

138. When land is sub-let, and any conflict arises under this Chapter between the rights of a superior and of an inferior landlord who distrain the same property, the right of the superior landlord shall prevail.

Conflict between rights of superior and inferior landlords.

139. When any conflict arises between an order for distraint issued under this Chapter and an order issued by a Civil Court for the attachment or sale of the property, which is the subject of the distraint, the order for distraint shall prevail; but if the property is sold under that order, the surplus proceeds of the sale shall not be paid, under section 134 to the owner of the property without the sanction of the Court by which the order of attachment or sale was issued.

Distraint of property which is under attachment.

140. No appeal shall lie from any order passed by a Civil Court under suit for

(Chapter XII.—Distrain.—Chapter XIII.—Judicial Procedure.—Secs. 14, 143.)

compensation
for wrongful
distrain.

this Chapter; but any person whose property is distrained on an application made under section 121, in any case which such an application is not permitted by that section, may institute a suit against the applicant for the recovery of compensation.

Power for
Local Govern-
ment to
authorize
distrain in
certain cases.

141. (1) When the Local Government is of opinion that in any local area or in any class of cases it would, by reason of the character of the cultivation or the habits of the cultivators, be impracticable for a landlord to realize his rent by an application under this Chapter to the Civil Court, it may, from time to time, by order, authorise the landlord to distrain, by himself or his agent, any produce for the distrain of which he would be entitled to apply under this Chapter to the Civil Court:

Provided that every person distraining any produce under such authorization shall proceed in the manner prescribed by section 124, and shall forthwith give notice, in such form as the High Court may, by rule, prescribe, to the Civil Court having jurisdiction to entertain an application for distraining the produce, and that Court shall, with no avoidable delay, depute an officer to take charge of the produce distrained.

(2) When an officer of the Court has taken charge of any distrained produce under this section, the proceedings shall thereafter be conducted in all respects as if he had distrained it under section 124.

(3) The Local Government may at any time rescind any order made by it under this section.

Power for
High Court
to make rules.

142. The High Court may, from time to time, make rules [1] consistent with this Act for regulating the procedure in all cases under this Chapter.

CHAPTER XIII.

JUDICIAL PROCEDURE.

Power to
modify Civil
Procedure
Code in its
application to
landlord and
tenant suits.

143. (1) The High Court may, from time to time, with the approval of the Governor General in Council, make rules [2] consistent with this Act, declaring that any portions of the Code of Civil Procedure [3] shall not apply to suits 14 of 1882. between landlord and tenant as such or to any specified classes of such suits, or shall apply to them subject to modifications specified in the rules.

[1] For rules under s. 142, see the High Court's Rules, 1803, Civil, Vol. I, p. 62.

[2] The High Court has not made any rules under s. 143.

[3] Printed in the General Acts, 1882-84, Ed. 1898, p. 262.

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(Chapter XIII.—Judicial Procedure.—Secs. 144-148.)

14 of 1882. (2) Subject to any rules so made, and subject also to the other provisions of this Act, the Code of Civil Procedure [1] shall apply to all such suits.

14 of 1882. 144. (1) The cause of action in all suits between landlord and tenant as such shall, for the purposes of the Code of Civil Procedure, [1] be deemed to have arisen within the local limits of the jurisdiction of the Civil Court which would have jurisdiction to entertain a suit for the possession of the tenure or holding in connection with which the suit is brought.

Jurisdiction in proceedings under Act.

(2) When under this Act a Civil Court is authorized to make an order on the application of a landlord or a tenant, the application shall be made to the Court which would have jurisdiction to entertain a suit for the possession of the tenure or holding in connection with which the application is brought.

14 of 1882. 145. Every naib or gumashta of a landlord empowered in this behalf by written authority under the hand of the landlord, shall, for the purposes of every such suit or application, be deemed to be the recognized agent of the landlord within the meaning of the Code of Civil Procedure, [1] notwithstanding that the landlord may reside within the local limits of the jurisdiction of the Court in which the suit is to be instituted or is pending, or in which the application is made.

Naibs or gumashtas to be recognized agents.

14 of 1882. 146. The particulars referred to in section 58 of the Code of Civil Procedure [1] shall, in the case of such suits, instead of being entered in the register of civil suits prescribed by that section, be entered in a special register to be kept by each Civil Court, in such form as the Local Government may, from time to time, prescribe in this behalf.

Special register of suits.

14 of 1882. 147. Subject to the provisions of section 373 of the Code of Civil Procedure, [1] where a landlord has instituted a suit against a raiyat for the recovery of any rent of his holding, the landlord shall not institute another suit against him for the recovery of any rent of that holding until after three months from the date of the institution of the previous suit.

Successive rent-suits.

148. The following rules shall apply to suits for the recovery of rent:—

14 of 1882. (a) sections 121 to 127 (both inclusive), 129, 305 and 320 to 326 (both inclusive) of the Code of Civil Procedure [1] shall not apply to any such suit:

Procedure in rent-suits.

14 of 1882. (b) the plaint shall contain, in addition to the particulars specified in section 50 of the Code of Civil Procedure, [1] a statement of the situation, designation, extent and boundaries of the land held by the tenant; or, where the plaintiff is unable to give the

(Chapter XIII.—Judicial Procedure.—Sec. 149.)

extent or boundaries in lieu thereof a description sufficient for identification :

- c) the summons shall be for the final disposal of the suit, unless the Court is of opinion that the summons should be for the settlement of issues only :
- (d) the service of the summons may, if the High Court by rule, either generally, or specially for any local area, so directs, be effected either in addition to, or in substitution for, any other mode of service, by forwarding the summons by post in a letter addressed to the defendant and registered under Part III of the Indian Post Office Act, 1866 : [1]

14 of 1866.

when a summons is so forwarded in a letter, and it is proved that the letter was duly posted and registered, the Court may presume that the summons has been duly served :

- (e) a written statement shall not be filed without the leave of the Court :
- (f) the rules for recording the evidence of witnesses prescribed by section 189 of the Code of Civil Procedure [2] shall apply, whether an appeal is allowed or not : 14 of 1882.
- (g) the Court may, when passing the decree, order on the oral application of the decree-holder the execution thereof, unless it is a decree for ejectment for arrears :
- (h) notwithstanding anything contained in section 232 of the Code of Civil Procedure, [2] an application for the execution of a decree for arrears obtained by a landlord shall not be made by an assignee of the decree unless the landlord's interest in the land has become and is vested in him. 14 of 1882.

Payment into Court of money admitted to be due to third person.

149. (1) When a defendant admits that money is due from him on account of rent, but pleads that it is due not to the plaintiff but to a third person, the Court shall, except for special reasons to be recorded in writing, refuse to take cognizance of the plea unless the defendant pays into Court the amount so admitted to be due.

(2) Where such a payment is made, the Court shall forthwith cause notice of the payment to be served on the third person.

[1] Act 14 of 1866 has been repealed and re-enacted by the Indian Post Office Act, 1898 (6 of 1898), and this reference should now be construed as a reference to Chapter VI of the latter (in General Acts, 1891-1898, Ed. 1899, p. 693) — see the General Clauses Act, 1897 (10 of 1897), s. 8 (in *ibid.*, p. 321.)

[2] Printed in the General Acts, 1882-84, Ed. 1898, p. 262.

[of 1885.]

THE BENGAL TENANCY ACT, 1885.

(Chapter XIII.—Judicial Procedure.—Secs. 150-153.)

(3) Unless the third person within three months from the receipt of the notice institutes a suit against the plaintiff and therein obtains an order restraining payment out of the money, it shall be paid out to the plaintiff on his application.

(4) Nothing in this section shall affect the right of any person to recover from the plaintiff money paid to him under sub-section (3).

150. When a defendant admits that money is due from him to the plaintiff on account of rent, but pleads that the amount claimed is in excess of the amount due, the Court shall, except for special reasons to be recorded in writing, refuse to take cognizance of the plea unless the defendant pays into Court the amount so admitted to be due.

Payment into Court of money admitted to be due to landlord.

151. When a defendant is liable to pay money into Court under either of the two last foregoing sections, if the Court thinks that there are sufficient reasons for so ordering, it may take cognizance of the defendant's plea on his paying into Court such reasonable portion of the money as the Court directs.

Provisions as to payment of portion of money.

152. When a defendant pays money into Court under either of the said sections, the Court shall give the defendant a receipt, and the receipt so given shall operate as an acquittance in the same manner and to the same extent as if it had been given by the plaintiff or the third person, as the case may be.

Court to grant

153. An appeal shall not lie from any decree or order passed, whether in the first instance or on appeal, in any suit instituted by a landlord for the recovery of rent where—

Appeals in rent suits.

(a) the decree or order is passed by a District Judge, Additional Judge or Subordinate Judge, and the amount claimed in the suit does not exceed one hundred rupees, or

(b) the decree or order is passed by any other judicial officer specially empowered by the Local Government to exercise final jurisdiction under this section, and the amount claimed in the suit does not exceed fifty rupees

unless in either case the decree or order has decided a question relating to title to land or to some interest in land as between parties having conflicting claims thereto, or a question of a right to enhance or vary the rent of a tenant, or a question of the amount of rent annually payable by a tenant:

Provided that the District Judge may call for the record of any case in which a judicial officer as aforesaid has passed a decree or order to which this section applies, if it appears that the judicial officer has exercised a jurisdiction not vested in him by law, or has failed to exercise a jurisdiction so vested or has acted in the exercise of his jurisdiction illegally or with material irregularity, and may pass such order as the District Judge thinks fit.

Date from
which decree
for enhance-
ment takes
effect.

154. A decree for enhancement of rent under this Act, if passed in a suit instituted in the first eight months of an agricultural year, shall ordinarily take effect on the commencement of the agricultural year next following; and, if passed in a suit instituted in the last four months of the agricultural year, [1] shall ordinarily take effect on the commencement of the agricultural year next but one following; but nothing in this section shall prevent the Court from fixing, for special reasons, a later date from which any such decree shall take effect.

Relief against
forfeitures.

155. (1) A suit for the ejectment of a tenant, on the ground—

- (a) that he has used the land in a manner which renders it unfit for the purposes of the tenancy, or
- (b) that he has broken a condition on breach of which he is, under the terms of a contract between him and the landlord, liable to ejectment,

shall not be entertained unless the landlord has served, in the prescribed manner, a notice on the tenant specifying the particular misuse or breach complained of, and, where the misuse or breach is capable of remedy, requiring the tenant to remedy same, and, in any case, to pay reasonable compensation for the misuse or breach, and the tenant has failed to comply within a reasonable time with that request.

(2) A decree passed in favour of a landlord in any such suit shall declare the amount of compensation which would reasonably be payable to the plaintiff for the misuse or breach, and whether, in the opinion of the Court, the misuse or breach is capable of remedy, and shall fix a period during which it shall be open to the defendant to pay that amount to the plaintiff, and, where the misuse or breach is declared to be capable of remedy, to remedy the same.

[1] For definition of "agricultural year," see s. 3 (11), *ante*, p. 254.

of 1885.]

THE BENGAL TENANCY ACT, 1885.

(Chapter XIII.—Judicial Procedure.—Secs. 156, 157.)

(3) The Court may, from time to time, for special reasons, extend a period fixed by it under sub-section (2)

(4) If the defendant, within the period or extended period (as the case may be) fixed by the Court under this section, pays the compensation mentioned in the decree, and, when the misuse or breach is declared by the Court to be capable of remedy, remedies the misuse or breach to the satisfaction of the Court, the decree shall not be executed.

156. The following rules shall apply in the case of every raiyat ejected from a holding :—

Rights of ejected raiyats in respect of crops and land prepared for sowing.

- (a) when the raiyat has, before the date of his ejectment, sown or planted crops in any land comprised in the holding, he shall be entitled, at the option of the landlord, either to retain possession of that land and to use it for the purpose of tending and gathering in the crops, or to receive from the landlord the value of the crops as estimated by the Court executing the decree for ejectment;
- (b) when the raiyat has, before the date of his ejectment, prepared for sowing any land comprised in his holding, but has not sown or planted crops in that land, he shall be entitled to receive from the landlord the value of the labour and capital expended by him in so preparing the land, as estimated by the Court executing the decree for ejectment, together with reasonable interest on that value;
- (c) but a raiyat shall not be entitled to retain possession of any land or receive any sum in respect thereof under this section where, after the commencement of proceedings by the landlord for his ejectment, he has cultivated or prepared the land contrary to local usage;
- (d) if the landlord elects under this section to allow a raiyat to retain possession of the land, the raiyat shall pay to the landlord, for the use and occupation of the land during the period for which he is allowed to retain possession of the same, such rent as the Court executing the decree for ejectment may deem reasonable.

157. When a plaintiff institutes a suit for the ejectment of a trespasser he may, if he thinks fit, claim as alternative relief that the defendant be declared liable to pay for the land in his possession a fair and equitable

Power for Court to fix fair rent as alternative to ejectment.

(Chapter XIII.—Judicial Procedure.—Chapter XIV.—Sale for Arrears under Decree—Secs. 158, 159.)

rent to be determined by the Court, and the Court may grant such relief accordingly.

Application to determine incidents of tenancy.

158. (1) The Court having jurisdiction to determine a suit for the possession of land may, on the application of either the landlord or the tenant of the land, determine all or any of the following matters, namely:—

- (a) the situation, quantity and boundaries of the land ;
- (b) the name and description of the tenant thereof (if any) ;
- (c) the class to which he belongs, that is to say, whether he is a tenure-holder, raiyat holding at fixed rates, occupancy-raiyat, non-occupancy raiyat or under-raiyat, and, if he is a tenure-holder, whether he is permanent tenure-holder or not, and whether his rent is liable to enhancement during the continuance of his tenure ; and
- (d) the rent payable by him at the time of the application.

(2) If, in the opinion of the Court, any of these matters cannot be satisfactorily determined without a local inquiry, the Court may direct that a local inquiry be held under Chapter XXV of the Code of Civil Procedure [1] by such Revenue officer as the Local Government may authorize in that behalf by rule made under section 392 of the said Code.

(3) The order on any application under this section shall have the effect of, and be subject to the like appeal as a decree.

CHAPTER XIV.

SALE FOR ARREARS UNDER DECREE.

General powers of purchaser as to avoidance of incumbrances.

159. Where a tenure or holding is sold in execution of a decree for arrears due in respect thereof, the purchaser shall take subject to the interests defined in this Chapter as "protected interests", but with power to annul the interests defined in this Chapter as "incumbrances"

Provided as follows:—

- (a) a registered and notified incumbrance within the meaning of this Chapter shall not be so annulled except in the case hereinafter mentioned in that behalf ;
- (b) the power to annul shall be exercisable only in manner by this Chapter directed.

of 1885.]

THE BENGAL TENANCY ACT, 1885,

(Chapter XIV.—Sale for Arrears under Decree.—Secs. 160, 162.)

160. The following shall be deemed to be protected interests within the meaning of this Chapter :— Protected interests.

- (a) any under-tenure existing from the time of the Permanent Settlement;
- (b) any under-tenure recognized by the settlement-proceedings of any current temporary settlement as a tenure at a rent fixed for the period of that settlement;
- (c) any lease of land whereon dwelling-houses, manufactories or other permanent buildings have been erected, or permanent gardens, plantations, tanks, canals, places of worship or burning or burying grounds have been made;
- (d) any right of occupancy;
- (e) the right of a non-occupancy-raiyat to hold for five years at a rent fixed under Chapter VI by a Court, or under Chapter X by a Revenue-officer;
- (f) any right conferred on an occupancy-raiyat to hold at a rent which was a fair and reasonable rent at the time the right was conferred; and
- (g) any right or interest which the landlord at whose instance the tenure or holding is sold, or his predecessor in title, has expressly and in writing given the tenant for the time being permission to create.

161. For the purposes of this Chapter—

- (a) the term “incumbrance”, used with reference to a tenancy, means any lien, sub-tenancy, easement or other right or interest created by the tenant on his tenure or holding or in limitation of his own interest therein, and not being a protected interest as defined in the last foregoing section;
- (b) the term “registered and notified incumbrance”, used with reference to a tenure or holding sold or liable to sale in execution of a decree for an arrear of rent due in respect thereof, means an incumbrance created by a registered instrument, of which a copy has, not less than three months before the accrual of the arrear, been served on the landlord in manner hereinafter provided.

Meaning of “incumbrance” and “registered and notified incumbrance”.

162. When a decree has been passed for an arrear of rent due for a tenure or holding, and the decree-holder applies under section 235 of the

Application for sale of

(Chapter XIV.—Sale for Arrears under Decree.—Secs. 163, 164.)

tenure or
holding.

Code of Civil Procedure [1] for the attachment and sale of the tenure or 14 of 1882.
holding in execution of the decree, he shall produce a statement showing the
pargana, estate and village in which the land comprised in the tenure or
holding is situate, the yearly rent payable for the same and the total amount
recoverable under the decree.

Order of
attachment
and proclama-
tion of sale
to be issued
simul-
taneously.

163. (1) Notwithstanding anything contained in the Code of Civil
Procedure, [1] when the decree-holder makes the application mentioned in 14 of 1882.
the last foregoing section, the Court shall, if under section 245 of the said
Code it admits the application and orders execution of the decree as applied
for, issue simultaneously the order of attachment and the proclamation re-
quired by section 287 of the said Code.

(2) The proclamation shall in addition to stating and specifying the
particulars mentioned in section 287 of the said Code, [1] announce—

(a) in the case of a tenure or a holding of a raiyat holding at fixed
rates, that the tenure or holding will first be put up to auction
subject to the registered and notified incumbrances, and will be
sold subject to those incumbrances if the sum bid is sufficient to
liquidate the amount of the decree and costs, and that otherwise
it will, if the decree-holder so desires, be sold on a subsequent
day, of which due notice will be given with power to annul all
incumbrances; and

(b) in the case of an occupancy-holding, that the holding will be sold
with power to annul all incumbrances.

(3) The proclamation shall, besides being made in the manner prescribed
by section 289 of the said Code, [1] be published by fixing up a copy thereof
in a conspicuous place on the land comprised in the tenure or holding
ordered to be sold, and shall also be published in such manner as the Local
Government may, from time to time, direct in this behalf.

(4) Notwithstanding anything contained in section 290 of the said Code,
[1] the sale shall not, without the consent in writing of the judgment-debtor,
take place until after the expiration of at least thirty days, calculated from
the date on which the copy of the proclamation has been fixed up on the
land comprised in the tenure or holding ordered to be sold.

Sale of tenure
or holding
subject to
registered

164. (2) When a tenure or a holding at fixed rates has been advertised
for sale under the last foregoing section, it shall be put up to auction subject

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THE BENGAL TENANCY ACT, 1885.

(Chapter XIV.—Sale for Arre under Decree.—Secs. 165-167.)

to registered and notified incumbrances; and, if the bidding reaches a sum sufficient to liquidate the amount of the decree and costs, including the costs of sale, the tenure or holding shall be sold subject to such incumbrances.

and notified incumbrances, and effect thereof.

(2) The purchaser at a sale under this section may, in manner provided by section 167, and not otherwise, annul any incumbrance upon the tenure or holding not being a registered and notified incumbrance.

165. (1) If the bidding for a tenure or a holding at fixed rates put up to auction under the last foregoing section does not reach a sum sufficient to liquidate the amount of the decree and costs as aforesaid, and if the decree-holder thereupon desires that the tenure or holding be sold with power to avoid all incumbrances, the officer holding the sale shall adjourn the sale and make a fresh proclamation under section 289 of the Code of Civil Procedure, [1] announcing that the tenure or holding will be put up to auction and sold with power to avoid all incumbrances upon a future day specified therein, not less than fifteen or more than thirty days from the date of the postponement; and upon that day the tenure or holding shall be put up to auction and sold with power to avoid all incumbrances.

Sale of tenure or holding with power to avoid all incumbrances, and effect thereof.

14 of 1882.

(2) The purchaser at a sale under this section may, in manner provided by section 167, and not otherwise, annul any incumbrance on the tenure or holding.

166. (1) When an occupancy-holding has been advertised for sale under section 163, it shall be put up to auction and sold with power to avoid all incumbrances.

Sale of occupancy-holding with power to avoid all incumbrances, and effect thereof.

(2) The purchaser at a sale under this section may, in manner provided by the next following section, and not otherwise, annul any incumbrance on the holding.

167. (1) A purchaser having power to annul an incumbrance under any of the foregoing sections and desiring to annul the same, may, within one year from the date of the sale or the date on which he first has notice of the incumbrance, whichever is later, present to the Collector an application in writing, requesting him to serve on the incumbrancer a notice declaring that the incumbrance is annulled.

Procedure for annulling incumbrances under the foregoing sections.

(2) Every such application must be accompanied by such fee for the service of the notice as the Board of Revenue may fix in this behalf.

(3) When an application for service of a notice is made to the Collector in manner prescribed by this section, he shall cause the notice to be served in

(Chapter XIV.—Sale for Arrears under Decree.—Secs. 168, 169.)

compliance therewith, and the incumbrance shall be deemed to be annulled from the date on which it is so served.

(4) When a tenure or holding is sold in execution of a decree for arrears due in respect thereof, and there is on the tenure or holding a protected interest of the kind specified in section 160, clause (c), the purchaser may, if he has power under this Chapter to avoid all incumbrances, sue to enhance the rent of the land which is the subject of the protected interest. On proof that the land is held at a rent which was not at the time the lease was granted a fair rent, the Court may enhance the rent to such amount as appears to be fair and equitable.

This sub-section shall not apply to land which has been held for a term exceeding twelve years at a fixed rent equal to the rent of good arable land.

Power to direct that occupancy-holdings be dealt with under foregoing sections as tenures.

168. (1) The Local Government may, from time to time, by notification in the official Gazette, direct that occupancy-holdings or any specified class of occupancy-holdings in any local area put up for sale in execution of decrees for rent due on them shall, before being put up with power to avoid all incumbrances, be put up subject to registered and notified incumbrances, and may by like notification rescind any such direction.

(2) While any such direction remains in force in respect of any local area, all occupancy-holdings, or, as the case may be, occupancy-holdings of the specified class in that local area, shall, for the purposes of sale under the foregoing sections of this Chapter, be treated in all respects as if they were tenures.

Rules for disposal of the sale-proceeds.

169. (1) In disposing of the proceeds of a sale under this Chapter, the following rules, instead of those prescribed by section 295 of the Code of Civil Procedure, [1] shall be observed, that is to say:—

14 of 1882.

- (a) there shall first be paid to the decree-holder the costs incurred by him in bringing the tenure or holding to sale;
- (b) there shall, in the next place, be paid to the decree-holder the amount due to him under the decree in execution of which the sale was made;
- (c) if there remains a balance after these sums have been paid, there shall be paid to the decree-holder therefrom any rent which may have fallen due to him in respect of the tenure or holding between the institution of the suit and the date of the sale;

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THE BENGAL TENANCY ACT, 1885.

(Chapter XIV.—Sale for Arrears under Decree.—Secs. 170-172.)

(d) the balance (if any) remaining after the payment of the rent mentioned in clause (c) shall, upon the expiration of two months from the confirmation of the sale, be paid to the judgment-debtor upon his application.

(2) If the judgment-debtor disputes the decree-holder's right to receive any sum on account of rent under clause (c), the Court shall determine the dispute, and the determination shall have the force of a decree.

14 of 1882. 170. (1) Sections 278 to 283 (both inclusive) of the Code of Civil Procedure [1] shall not apply to a tenure or holding attached in execution of a decree for arrears due thereon. Tenure or holding to be released from attachment only on payment into Court of amount of decree with costs, or on confession of satisfaction by decree-holder.

(2) When an order for the sale of a tenure or holding in execution of such a decree has been made, the tenure or holding shall not be released from attachment unless, before it is knocked down to the auction-purchaser, the amount of the decree, including the amount decreed, together with the costs incurred in order to the sale, is paid into Court, or the decree-holder makes an application for the release of the tenure or holding on the ground that the decree has been satisfied out of Court.

(3) The judgment-debtor or any person having in the tenure or holding any interest voidable on the sale, may pay money into Court under this section.

171. (1) When any person having, in a tenure or holding advertised for sale under this Chapter, an interest which would be voidable upon the sale, pays into Court the amount requisite to prevent the sale— Amount paid into Court to prevent sale to be in certain cases a mortgage-debt on the tenure or holding.

(a) the amount so paid by him shall be deemed to be a debt bearing interest at twelve *per centum per annum* and secured by a mortgage of the tenure or holding to him

(b) his mortgage shall take priority of every other charge on the tenure or holding other than a charge for arrears of rent; and

(c) he shall be entitled to possession of the tenure or holding as mortgagee of the tenant, and to retain possession of it as such until the debt, with the interest due thereon, has been discharged.

(2) Nothing in this section shall affect any other remedy to which any such person would be entitled.

172. When a tenure or holding is advertised for sale under this Chapter Inferior tenant paying

(Chapter XIV.—Sale for Arrear under Decree.—Secs. 173-175.)

into Court
may deduct
from rent.

in execution of a decree against a superior tenant defaulting, and an inferior tenant, whose interest would be voidable upon the sale, pays money into Court in order to prevent the sale, he may, in addition to any other remedy provided for him by law, deduct the whole or any portion of the amount so paid from any rent payable by him to his immediate landlord; and that landlord, if he is not the defaulter, may in like manner deduct the amount so deducted from any rent payable by him to his immediate landlord, and so on until the defaulter is reached.

Decree-holder
may bid at
judg-
may not.

173. (1) Notwithstanding anything contained in section 294 of the Code of Civil Procedure, [1] the holder of a decree in execution of which a 14 of 1882.
tenure or holding is sold under this Chapter may, without the permission of the Court, bid for or purchase the tenure or holding.

(2) The judgment-debtor shall not bid for or purchase a tenure or holding so sold.

(3) When a judgment-debtor purchases by himself or through another person a tenure or holding so sold, the Court may, if it thinks fit, on the application of the decree-holder or any other person interested in the sale, by order set aside the sale and the costs of the application and order, and any deficiency of price which may happen on the re-sale, and all expenses attending it shall be paid by the judgment-debtor.

Application
by judgment-
debtor to set
aside sale.

174. (1) Where a tenure or holding is sold for an arrear of rent due thereon, then, at any time within thirty days from the date of sale, the judgment-debtor may apply to have the sale set aside, on his depositing in Court, for payment to the decree-holder, the amount recoverable under the decree with costs, and, for payment to the purchaser, a sum equal to five per centum of the purchase-money.

(2) If such deposit is made within the thirty days, the Court shall pass an order setting aside the sale, and the provisions of section 315 of the Code of Civil Procedure [1] shall apply in the case of a sale so set aside: 14 of 1882.

Provided that, if a judgment-debtor applies under section 311 of the Code of Civil Procedure [1] to set aside the sale of his tenure or holding, he 14 of 1882.
shall not be entitled to make an application under this section.

(3) Section 318 of the Code of Civil Procedure [1] shall not apply to any 14 of 1882.
sale under this Chapter.

Registration
of certain

175 Notwithstanding anything contained in Part IV of the Indian

of 1885.]

THE BENGAL TENANCY ACT, 1885.

(Chapter XIV.—Sale for Arrear under Decree.—Chapter XV.—Contract and Covenants.—Secs. 176-178.)

s of 1877.

Registration Act, 1877, [1] an instrument creating an incumbrance upon any tenure or holding which has been executed before the commencement of this Act, and is not required by section 17 of the said Registration Act to be registered, shall be accepted for registration under that Act if it is presented for that purpose to the proper officer within one year from the commencement of this Act.

instru-
creating in-
cumbrances.

176. Every officer who has, whether before or after the passing of this Act, registered an instrument executed by a tenant of a tenure or holding and creating an incumbrance on the tenure or holding, shall, at the request of the tenant or of the person in whose favour the incumbrance is created, and on payment by him of such fee as the Local Government may fix in this behalf, notify the incumbrance to the landlord by causing a copy of the instrument to be served on him in the prescribed manner.

Notification
of incum-
brances to
landlord.

177. Nothing contained in this Chapter shall be deemed to enable a person to create an incumbrance which he could not otherwise lawfully create.

Power to
create incum-
brances not
extended.

CHAPTER V.

CONTRACT AND COVENANTS.

178. (1) Nothing in any contract between a landlord and a tenant made before or after the passing of this Act—

Restrictions
on exclusion
of Act by
agreement.

- (a) shall bar in perpetuity the acquisition of an occupancy-right in land, or
- (b) shall take away an occupancy-right in existence at the date of the contract, or
- (c) shall entitle a landlord to eject a tenant otherwise than in accordance with the provisions of this Act, or
- (d) shall take away or limit the right of a tenant, as provided by this Act, to make improvements and claim compensation for them.

(2) Nothing in any contract made between a landlord and a tenant since the 15th day of July, 1880, and before the passing of this Act, shall prevent a raiyat from acquiring, in accordance with this Act, an occupancy-right in land.

(3) Nothing in any contract made between a landlord and a tenant after the passing of this Act shall—

- (a) prevent a raiyat from acquiring, in accordance with this Act, an occupancy-right in land;

[1] Printed in the General Acts, 1877-81, Ed. 1888, p. 50.

- (b) take away or limit the right of an occupancy-raiyat to use land as provided by section 23 ;
- (c) take away the right of a raiyat to surrender his holding in accordance with section 86 ;
- (d) take away the right of a raiyat to transfer or bequeath his holding in accordance with local usage ;
- (e) take away the right of an occupancy-raiyat to sublet subject to, and in accordance with, the provisions of this Act ;
- (f) take away the right of a raiyat to apply for a reduction of rent under section 38 or section 52 ;
- (g) take away the right of a landlord or a tenant to apply for a commutation of rent under section 40 ; or
- (h) affect the provisions of section 67 relating to interest payable on arrears of rent :

Provided as follows :—

- (i) nothing in this section shall affect the terms or conditions of a lease granted *bonâ fide* for the reclamation of waste land, except that, where, on or after the expiration of the term created by the lease, the lessee would, under Chapter V, be entitled to an occupancy-right in the land comprised in the lease, nothing in the lease shall prevent him from acquiring that right ;
- (ii) when a landlord has reclaimed waste land by his own servants or hired labourers, and subsequently lets the same or a part thereof to a raiyat, nothing in this Act shall affect the terms of any contract whereby a raiyat is prevented from acquiring an occupancy-right in the land or part during a period of thirty years from the date on which the land or part is first let to a raiyat ;
- (iii) nothing in this section shall affect the terms or conditions of any contract for the temporary cultivation of orchard land with agricultural crops.

Permanent
mukarrari
leases.

179. Nothing in this Act shall be deemed to prevent a proprietor or a holder of a permanent tenure in a permanently-settled area from granting a permanent mukarrari lease on any terms agreed on between him and his tenant.

Utbandi, char
and dhara

180. (1) Notwithstanding anything in this Act, a raiyat—

- (a) who, in any part of the country where the custom of utbandi prevails,

of 1885.]

THE BENGAL TENANCY ACT, 1885.

(Chapter XV.—Contract and Custom.—Secs. 181-183.)

holds land ordinarily let under that custom and for the time being let under that custom,

(b) who holds land of the kind known as char or diara, shall not acquire a right of occupancy—

in case (a), in land ordinarily held under the custom of utbandi and for the time being held under that custom, or

in case (b), in the char or diara land,

until he has held the land in question for twelve continuous years; and, until he acquires a right of occupancy in the land, he shall be liable to pay such rent for his holding as may be agreed on between him and his landlord.

(2) Chapter VI shall not apply to raiyats holding land under the custom of utbandi in respect of land held by the under that custom.

(3) The Collector may, on the application of either the landlord or the tenant or on a reference from the Civil Court, declare that any land has ceased to be char or diara land within the meaning of this section, and thereupon all the provisions of this Act shall apply to the land.

181. Nothing in this Act shall affect a incident of a ghatwali [1] or Saving as to service-tenures. other service-tenure, or, in particular, shall confer a right to transfer or bequeath a service-tenure which, before the passing of this Act, was not capable of being transferred or bequeathed.

182. When a raiyat holds his homestead otherwise than as part of Homesteads. his holding as a raiyat, the incidents of his tenancy of the homestead shall be regulated by local custom or usage, and, subject to local custom or usage, by the provisions of this Act applicable to land held by a raiyat.

183. Nothing in this Act shall affect any custom, usage or customary Saving of custom. right not inconsistent with, or not expressly or by necessary implication modified or abolished by, its provisions.

Illustrations.

(1) A usage under which a raiyat is entitled to sell his holding without the consent of his landlord is not inconsistent with, and is not expressly or by necessary implication modified or abolished by, the provisions of this Act. That usage, accordingly, wherever it may exist, will not be affected by this Act.

(2) The custom or usage that an under-raiyat should, under certain circumstances, acquire a right of occupancy is not inconsistent with, and is not expressly or by necessary implication modified or abolished by, the provisions of this Act, that custom or usage, accordingly, wherever it exists, will not be affected by this Act.

[1] As to ghatwali tenures, see the head "Ghatwali Lands" in Vol. I of this Code, p. 567.

CHAPTER XVI.

LIMITATION.

Limitation
in suits,
appeals and
applications in
Schedule III.

184. (1) The suits, appeals and applications specified in Schedule III annexed to this Act shall be instituted and made within the time prescribed in that Schedule for them respectively; and every such suit or appeal instituted, and application made, after the period of limitation so prescribed, shall be dismissed although limitation has not been pleaded.

(2) Nothing in this section shall revive the right to institute any suit or appeal or make any application which would have been barred by limitation if it had been instituted or made immediately before the commencement of this Act.

Portions of
the Indian
Limitation
Act not appli-
cable to such
suits, etc.

185. (1) Sections 7, 8 and 9 of the Indian Limitation Act, 1877, [1] 15 of 1877. shall not apply to the suits and applications mentioned in the last foregoing section.

(2) Subject to the provisions of this Chapter, the provisions of the Indian Limitation Act, 1877, [1] shall apply to all suits, appeals and applications 15 of 1877. mentioned in the last foregoing section

CHAPTER XVII.

SUPPLEMENTAL.

Penalties.

Penalties.

Penalties
for illegal
interference
with produce.

186. (1) If any person, otherwise than in accordance with this Act or some other enactment for the time being in force,—

(a) distrains or attempts to detain the produce of a tenant's holding, or

(b) resists a distraint duly made under this Act, or forcibly or clandestinely removes any property duly distrained under this Act, or,

(c) except with the authority or consent of the tenant prevents or attempts to prevent the reaping, gathering, storing, removing or otherwise dealing with any produce of a holding,

he shall be deemed to have committed criminal trespass within the meaning of the Indian Penal Code, [2]

45 of 1860.

(2) Any person who abets within the meaning of the Indian Penal Code [2] 45 of 1860. the doing of any act mentioned in sub-section (1), shall be deemed to

[1] Printed in the General Acts, 1877-81, Ed. 1898, p. 75.

[2] Printed in the General Acts, 1860-67, Ed. 1898, p. 240.

of 1885.]

THE BENGAL TENANCY ACT, 1886.

(Chapter XVII.—Supplemental.—Secs. 167-189.)

have abetted the commission of criminal trespass within the meaning of that Code.

Agents and representatives of landlords.

*Agents and
representatives of
landlords
Power for
landlord
agent.*

187. (1) Any appearance, application or act, in, before or to any Court or authority, required or authorized by this Act to be made or done by a landlord, may, unless the Court or authority otherwise directs, be made or done also by an agent empowered in this behalf by a written authority under the hand of the landlord.

(2) Every notice required by this Act to be served on, or given to, a landlord shall, if served on, or given to, an agent empowered as aforesaid to accept service of or receive the same on behalf of the landlord, be as effectual for the purposes of this Act as if it had been served on, or given to, the landlord in person.

(3) Every document required by this Act to be signed or certified by a landlord, except an instrument appointing or authorizing an agent, may be signed or certified by an agent the landlord authorized in writing in that behalf.

188. Where two or more persons are joint-landlords, anything which the landlord is under this Act required or authorized to do must be done either by both or all those persons acting together, or by an agent authorized to act on behalf of both or all of them.

*Joint-land-
lords to act
collectively
or by common
agent.*

Rules under Act.

189. The Local Government may, from time to time, by notification in the official Gazette, make rules [1] consistent with this Act—

(1) to regulate the procedure to be followed by Revenue-officers in the discharge of any duty imposed upon them by or under this Act, and may by such rules confer upon any such officer—

- (a) any power exercised by a Civil Court in the trial of suits;
- (b) power to enter upon any land, and to survey, demarcate and make a map of the same, and any power exerciseable by any officer under the Bengal Survey Act, 1875 [2]; and
- (c) power to cut and thresh the crops on any land and weigh the produce, with a view to estimating the capabilities of the soil; and

*Rules under
Act.
Power to
make rules
regarding
procedure,
powers of
officers and
service of
notices.*

Ben. Act 5
of 1875.

[1] For rules made by the Local Government under this Act, and the Board of Revenue's Instructions thereon, see the Bengal Tenancy Rules, 1898, and the Chota Nagpur Tenancy Rules, 1904.

[2] Printed in Vol. IV of this Code.

(Chapter XVII.—Supplemental.—Secs. 190-192.)

(2) to prescribe the mode of service of notices under this Act where no mode is prescribed by this or any other Act.

Procedure for making, publication and confirmation of rules.

190. (1) Every authority having power to make rules under any section of this Act shall, before making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

(2) The publication shall be made, in the case of rules made by the Local Government or High Court, in such manner as may, in its opinion, be sufficient for giving information to persons interested, and, in the case of rules made by any other authority, in the prescribed manner:

Provided that every such draft shall be published in the official Gazette.

(3) There shall be published with the draft a notice specifying a date, not earlier than the expiration of one month after the date of publication, at or after which the draft will be taken into consideration.

(4) The authority shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(5) The publication in the official Gazette of a rule purporting to be made under this Act shall be conclusive evidence that it has been duly made.

(6) All rules made under this Act may, from time to time, subject to the sanction (if any) required for making them, be amended, added to or cancelled by the authority having power to make the same.

Provisions as to temporarily-settled districts.
Saving as to land held in a district not permanently settled.

Provisions as to temporarily-settled districts.

191. Where the area comprised in a tenure is situate in an estate which has never been permanently settled, nothing in this Act shall prevent the enhancement of the rent upon the expiration of a temporary settlement of the revenue, unless the right to hold beyond the term of the settlement at a particular rate of rent has been expressly recognized in settlement-proceedings by a Revenue authority empowered by the Government to make definitively or confirm settlements.

Power to alter rent in case of new assessment of revenue.

192. When a landlord grants a lease or makes any other contract, purporting to entitle the tenant of land not included in an area permanently settled to hold that land free of rent or at a particular rent, and while the lease or contract is in force—

(a) land-revenue is for the first time made payable in respect of the land,
or

(b) land-revenue having been previously payable in respect of it, a fresh settlement of land-revenue is made,

of 1885.]

THE BENGAL TENANCY ACT, 1885.

(Chapter XVII.—Supplemental.—Secs. 193-196.)

a Revenue-officer may, notwithstanding anything in the contract between the parties, by order, on the application of the landlord or of the tenant, fix a fair and equitable rent for the land in accordance with the provisions of this Act.

Rights of pasturage, etc.

193. The provisions of this Act applicable to suits for the recovery of arrears of rent shall, as far as may apply to suits for the recovery of anything payable or deliverable in respect of any rights of pasturage, forest-right, rights over fisheries and the like

Rights of pasturage, etc.
Rights of pasturage, forest-rights, etc.

Saving for conditions binding on landlords.

194. Where a proprietor or permanent tenure-holder holds his estate or tenure subject to the observance of any specified rule or condition, nothing in this Act shall entitle any person occupying land within the estate or tenure to do any act which involves a violation of that rule or condition.

Saving for conditions binding on landlords.
Tenant not enabled by Act to violate conditions binding on landlord.
Savings for special enactments.
Savings for special enactments.

Savings for special enactments.

195. Nothing in this Act shall affect—

- (a) the powers and duties of Settlement-officers as defined by any law not expressly repealed by this Act;
- (b) any enactment regulating the procedure for the realization of rents in estates belonging to the Government, or under the management of the Court of Wards or of the Revenue authorities;
- (c) any enactment relating to the avoidance of tenancies and incumbrances by a sale for arrears of the Government revenue;
- (d) any enactment relating to the partition of revenue-paying estates;
- (e) any enactment relating to patni tenures, in so far as it relates to those tenures; or
- (f) any other special or local law not repealed either expressly or by necessary implication by this Act.

Construction of Act.

196. This Act shall be read subject to every Act passed after its commencement by the Lieutenant-Governor of Bengal in Council.

Construction of Act.
Act to be read subject to Acts hereafter passed by Lieutenant-Governor of Bengal in Council.

SCHEDULE I.

(see section 2.)

REPEAL OF ENACTMENTS.

Regulations of the Bengal Code.

Number and year.	SUBJECT OF REGULATION.	Extent of repeal.
8 of 1793	A Regulation for reenacting with modifications and amendments the rules for the Decennial Settlement of the public revenue payable from the lands of the zamindars, independent talukdars and other actual proprietors of land in Bengal, Bihar and Orissa, passed for those Provinces respectively on the 18th September, 1789, the 25th November, 1789, and the 10th February, 1790, and subsequent dates.	Sections 51, 52, 53, 54, 55, 64 and 65.
12 of 1805	A Regulation for the settlement and collection of the public revenue in the zilla of Cuttack, including the parganas of Pattaspur, Kummadihour, and Bagrae, at present included in the zilla of Midnapore.	Section 7.
5 of 1812	A Regulation for amending some of the rules at present in force for the collection of the land-revenue.	Sections 2, 3, 4, 26 and 27.
18 of 1812	A Regulation for explaining section 2, Regulation 5, 1812, and rescinding sections 3 and 4, Regulation 44, 1793, and sections 3 and 4, Regulation 50, 1795, and enacting other rules in lieu thereof.	The preamble and sections 2 and 3.
11 of 1825	A Regulation for declaring the rules to be observed in determining claims to lands gained by alluvion or by dereliction of a river or the sea.	In clause 1 of section 4, from and including the words "nor if annexed to a subordinate tenure" to the end of the clause.

Acts of the Bengal Council.

Number and year.	SUBJECT OF ACT.	Extent of repeal.
6 of 1862	An Act to amend Act 10 of 1859 (to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal).	The whole Act.

LANDLORD AND TENANT.

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of 1885.]

THE BENGAL LAND TENANCY ACT, 1885.

(Schedule I.—*Repeal of Enactments.*)

Acts of the Bengal Council—contd.

Number and year.	SUBJECT OF ACT.	Extent of repeal.
4 of 1867	An Act to explain and amend Act 6 of 1862, passed by the Lieutenant-Governor of Bengal in Council, and to give validity to certain judgments.	The whole Act.
8 of 1869	An Act to amend the Procedure in suits between landlords and tenants.	The whole Act.
8 of 1879	An Act to define and limit the powers of Settlement-officers.	The whole Act.
<i>Act of the Governor General in Council.</i>		
10 of 1859	An Act to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal.	The whole Act.

LANDLORD AND TENANT.

THE BENGAL TENANCY ACT, 1885.

[Act 8

(Schedule II.—Forms of Receipt and Account.)

SCHEDULE II.

FORMS OF RECEIPT AND ACCOUNT.

(see sections 56 and 57.)

FORM OF RECEIPT.

PARTICULARS OF THE HOLDING (LANDLORD'S PORTION).

1. Serial number of Receipt _____
2. Estate ; Village ; Thána _____
3. Tenant's name , Son of _____
4. Particulars of the holding—
Nakdi, Bighas ; rent Ra. _____
Bhaoli, Bighas ; Maunds or Ra. _____
 { Jalkar, Ra.
 Bankar, Ra.
 Phalkar, Ra.
 { Road Cess, Ra.
 Public Works Cess, Ra.
 Government Cesses
5. Signature of the Landlord or his Authorised Agent _____

Section 55 of the Bengal Tenancy Act, 1885, provides as follows:—

- (1) When a tenant makes a payment on account of rent, he may declare the year or the year and instalment to which he wishes the payment to be credited, and the payment shall be credited accordingly.
- (2) If he does not make any such declaration, the payment may be credited to the account of such year and instalment as the landlord thinks fit.

For references to notifications prescribing modified forms of receipt, see para. (25) of footnote on p. 253, *ante*.

FORM OF RECEIPT.

PARTICULARS OF THE HOLDING (TENANT'S PORTION).

1. Serial number of Receipt _____
2. Estate ; Village ; Thána _____
3. Tenant's name , Son of _____
4. Particulars of the holding—
Nakdi, Bighas ; rent Ra. _____
Bhaoli, Bighas ; Maunds or Ra. _____
 { Jalkar, Ra.
 Bankar, Ra.
 Phalkar, Ra.
 { Road Cess, Ra.
 Public Works Cess, Ra.
 Government Cesses
5. Signature of the Landlord or his Authorized Agent _____

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THE BENGAL TENANCY ACT, 1885.

DETAILS OF PAYMENTS (LANDLORD'S PORTION).

[illegible]

**Date of payment,
and name of
person through
whom paid.**

[illegible]

(Schedule II.—Forms of Receipt and Account.)

FORM OF ACCOUNT.

1. Year				
2. Tenant's name				
3. Particulars of holding—(area, rent, etc.)				
	Bighas	Rate		Rs. A. P.
	<i>Nakdi</i>			
	Government Ceases			
	Bighas	Maunds		Rs. A. P.
	<i>Bhaoli</i>			
	Jalkar			
	Bankar			
	Phalkar			
		Maunds		Rs. A. P.
4. Demand of the year				
5. Balance of former years (Bakaya)				
6. Total demand (current and arrear)				Rs. A. P.
7. Paid each on account of				
	Current demand			
	Arrear demand			
8. Paid in kind				
		Maunds		
9. Balance outstanding at end of year				Rs. A. P.
10. Signature of the Landlord or his Authorized Agent.				

FORM OF ACCOUNT.

1. Year				
2. Tenant's name				
3. Particulars of holding—(area, rent, etc.)				
	Bighas	Rate		Rs. A. P.
	<i>Nakdi</i>			
	Government Ceases			
	Bighas	Maunds		Rs. A. P.
	<i>Bhaoli</i>			
	Jalkar			
	Bankar			
	Phalkar			
		Maunds		Rs. A. P.
4. Demand of the year				
5. Balance of former years (Bakaya)				
6. Total demand (current and arrear)				Rs. A. P.
7. Paid each on account of				
	Current demand			
	Arrear demand			
8. Paid in kind				
		Maunds		
9. Balance outstanding at end of year				Rs. A. P.
10. Signature of the Landlord or his Authorized Agent.				

For reference to a notification prescribing a modified form of account, see para. (23) of footnote on p. 252 ante.

THE BENGAL TENANCY ACT, 1885.

(Schedule III.—Limitation.)

SCHEDULE III. [1]

LIMITATION.

(see section 184.)

PART I.—Suits.

Description of suit.	Period of limitation.	Time from which period begins to run.
1. To eject any tenure-holder or raiyat on account of any breach of a condition in respect of which there is a contract expressly providing that ejectment shall be the penalty of such breach.	One year .	The date of the breach.
2. For the recovery of an arrear of rent—		
(a) when the arrear fell due before a deposit was made under section 61 on account of the rent of the same holding.	Six months .	The date of the service of notice of the deposit.
(b) in other cases	Three years .	The last day of the Bengali year in which the arrear fell due, where that year prevails, and the last day of the month of Jeyt of the Amlī or Fasli year in which the arrear fell due, where either of those years prevails.
3. To recover possession of land claimed by the plaintiff as an occupancy-raiyat.	Two years .	The date of dispossession.

PART II.—Appeals.

Description of appeal.	Period of limitation.	Time from which period begins to run.
4. From any decree or order under this Act, to the Court of a District Judge or Special Judge.	Thirty days .	The date of the decree or order appealed against.
5. From any order of a Collector under this Act, to the Commissioner.	Thirty days .	The date of the order appealed against.

[1] The word "rent," in Sch. III, includes also money recoverable under any enactment for the time being in force as if it was rent—see s. 3 (5), *ante*, p. 254.

LANDLORD AND TENANT.
THE BENGAL TENANCY ACT, 1885.
(Schedule III.—Limitation.)

[Act 8]

PART III.—Applications.

Description of application.	Period of limitation.	Time from which period begins to run.
<p>6. For the execution of a decree or order made under this Act, or any Act repealed by this Act, and not being a decree for a sum of money exceeding Rs. 500, exclusive of any interest which may have accrued after decree upon the sum decreed, but inclusive of the costs of executing such decree; except where the judgment-debtor has by fraud or force prevented the execution of the decree, in which case the period of limitation shall be governed by the provisions of the Indian Limitation Act, 1877.[1]</p>	Three years .	<p>(1) The date of the decree or order; or (2) where there has been an appeal, the date of the final decree or order of the Appellate Court; or (3) where there has been a review of judgment, the date of the decision passed on the review.</p>

15 of 1877.

[1] Printed in the General Acts, 1877-81, Ed. 1898, p. 75.

of 1885.]

THE BENGAL TENANCY ACT, 1885.

(Appendix A.)

APPENDIX A.

Notifications extending Act 8 of 1885 (i. part) and Bengal Act 3 of 1898 to the Division of Orissa.

The 10th September, 1891.—Under section 1, clause (3) of the Bengal Tenancy Act, the Lieutenant-Governor, with the previous sanction of His Excellency the Governor General in Council, is pleased to extend the following portions of the Act to the Division of Orissa:—

Chapter X[1] and sections 3 to 5, 19 to 26, 41 to 49, 53 to 75 and 191.

[Published in Calcutta Gazette, 16th September, 1891, Part I, page 839.]

No. 2448 L. R.—The 27th June, 1892.—Under section 1, clause (3) of the Bengal Tenancy Act, 8 of 1885, the Lieutenant-Governor, with the previous sanction of His Excellency the Governor General in Council, and in continuation of the Bengal Government's Notification, dated the 10th September, 1891, published in the Calcutta Gazette of the 16th *idem*, Part I, page 839, is pleased to extend sections 27-38 and 30 of the Act to the Division of Orissa.

[Published in Calcutta Gazette, 29th June, 1892, Part I, page 673.]

No. 115 L. R.—The 5th January, 1893.—Under section 1, clause (3) of the Bengal Tenancy Act, 8 of 1885, the Lieutenant-Governor, with the previous sanction of His Excellency the Governor General in Council, and in continuation of the Bengal Government's Notification No. 2448 L. R., dated the 27th June, 1892, published in the Calcutta Gazette of the 29th June, 1892, Part I, page 673, is pleased to extend sections 189 and 190 of the Act to the Division of Orissa.

[Published in Calcutta Gazette, 11th January, 1893, Part I, page 20.]

No. 99 L. R.—The 7th January, 1896.—Under section 1, clause (3) of the Bengal Tenancy Act, 8 of 1885, the Lieutenant-Governor, with the previous sanction of His Excellency the Governor General in Council, and in continuation of the Bengal Government's Notification No. 115 L. R., dated the 5th January, 1893, published at page 20, Part I of the Calcutta Gazette of

[1] This extension of Chapter X is superseded by extension to Orissa of Ben. Act 3 of 1898, which enacts a new Chapter X.

APPENDIX A—*concl'd.*

the 11th *idem*, is pleased to extend section 39 of the Act to the Division of Orissa.

[Published in Calcutta Gazette, 14th January, 1896, Part I, page 28.]

No. 971 T. R.—The 17th October, 1896.—Under section 1, clause (3) of the Bengal Tenancy Act, 8 of 1885, the Lieutenant-Governor, with the previous sanction of His Excellency the Governor General in Council, and in continuation of the Bengal Government Notification No. 99, dated the 7th January, 1896, published at page 28, Part I, of the Calcutta Gazette of the 8th *idem*, is pleased to extend sections 7, 40, 52 and 192 of the Act to the Division of Orissa.

[Published in Calcutta Gazette, 1st October, 1896, Part I, page 1081.]

No. 957 T. R.—The 5th November, 1898.—Under section 1, clause (5) of the Bengal Tenancy Act, 8 of 1885, the Lieutenant-Governor, with the previous sanction of His Excellency the Governor General in Council, is pleased to extend the provisions of the Bengal Tenancy (Amendment) Act, 8 of 1898, to the Division of Orissa.

[Published in Calcutta Gazette, 9th November, 1898, Part I, page 1156 A.]

APPENDIX B.

Notifications extending section 31 A (1) of Act 8 of 1885.

No. 1470 T. R.—The 1st September, 1900.—It is hereby notified for general information that the Lieutenant-Governor has been pleased to extend the provisions of section 31 A (1) of the Bengal Tenancy Act, 8 of 1885, as amended by Act 3 (B. C.) of 1898, to the district of Tippera.

[Published in Calcutta Gazette, 5th September, 1900, Part I, page 970.]

No. 1091 L. R.—The 18th February, 1904.—It is hereby notified for general information that the Lieutenant-Governor has been pleased to extend the provisions of section 31 A (1) of the Bengal Tenancy Act, 8 of 1885, as amended by Act 3 (B. C.) of 1898, to Government estate Taufir Barhia bearing tauzi No. 1809, in the district of Monghyr.

[Published in Calcutta Gazette, 1904, Part I, page 317.]

[Act 8 of 1886.] THE BENGAL TENANCY (AMENDMENT) ACT, 1886.

THE BENGAL TENANCY (AMENDMENT) ACT, 1886^[1]
(ACT 8 OF 1886).

[8th March, 1886.]

An Act to amend sections 12 and 13 of the Bengal Tenancy Act, 1885.

8 of 1885.

WHEREAS it is expedient to amend sections 12 and 13 of the Bengal Tenancy Act, 1885, in manner hereinafter appearing; It is hereby enacted as follows:—

1. In section 12, sub-section (2), before the word "mortgage" the word "usufructuary" shall be inserted.

2. (1) In section 13, sub-section (1), before the words "the Court" the words "or when a mortgage of a permanent tenure, other than an usufructuary mortgage thereof, is foreclosed," shall be inserted.

(2) In the same sub-section, before the word "require" the words "or making a decree or order absolute for the foreclosure" shall be inserted.

(3) In the same sub-section, before the words "to pay into Court" the words "or mortgages" shall be inserted.

(4) In the same sub-section, before the words "on the landlord" the words "or final foreclosure" shall be inserted.

(5) In section 13, sub-section (2), before the words "the Court" the words "or the decree or order absolute for the foreclosure has been made," shall be inserted.

(6) In the same sub-section, before the words "in the prescribed form," the words "or final foreclosure" shall be inserted.

[1] SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), printed in Vol. I, p. 18.

LEGISLATIVE PAPERS.—For Proceedings in Council, see Supplement to Gazette of India, 1886, pages 293 and 301.

LOCAL EXTENT.—Since this Act merely amends the Bengal Tenancy Act, 1885 (8 of 1885), its local extent must be taken to be the same as that of the latter Act, as to which see paras. (2) to (10) of foot-note on page 251, *ante*.

THE BENGAL TENANCY (AMENDMENT) ACT, 1898

(BENGAL ACT 3 OF 1898).*

CONTENTS.

SECTION.

1. Short title.
Commencement [Repealed.]
2. Amendment of Act 8, 1885, section 30.
3. Amendment of Act 8, 1885, section 31.
4. Insertion of sections 31 A and 31 B in Act 8, 1885.
5. Amendment of Act 8, 1885, section 39 (6).
6. Amendment of Act 8, 1885, section 52.
7. New Chapter X for Act 8, 1885.
8. Validation of publication of past records.
9. Effect of settlements of rent and decisions by Revenue-officers made before the commencement of this Act.
10. Amendment of Act 8, 1885, section 119.
11. *[Repealed.]*

THE BENGAL TENANCY (AMENDMENT) ACT, 1898

(BENGAL ACT 3 OF 1898).[1]

[2nd November, 1898.]

An Act to amend sections 30, 31, 39, 52 and 119 and Chapter X of the Bengal Tenancy Act, 1885.

WHEREAS it is expedient to amend sections 30, 31, 39, 52 and 119 and 8 of 1885. Chapter X of the Bengal Tenancy Act, 1885,[2] in the manner hereinafter appearing ;

And whereas, the said Act having been passed by the Governor General of India in Council, the previous sanction of the Governor General has been obtained, under section 5 of the Indian Councils Act, 1892, [3] to the requisite

55 & 56
Vict., c. 14.

[1] LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1897, Pt. IV, page 107 ; for Report of Select Committee, see *ibid*, 1898, Pt. IV, page 515 ; and for Proceedings in Council, see *ibid* Supplement, 1897, pages 1218, 1888 ; Supplement, 1898, pages 529, 670 and 762.

LOCAL EXTENT.—Since this Act merely amends the Bengal Tenancy Act, 1885 (8 of 1885), its local extent must be taken to be the same as that of the latter Act, as to which see para. (2) to (10) of foot-note on page 251, *ante*.

[2] Printed *ante*, p. 251.

[3] Printed in the Collection of Statutes relating to India, Vol. II, Ed. 1901, p. 911.

of 1898.] THE BENGAL TENANCY (AMENDMENT) ACT, 1898.

(Secs. 1-9.)

amendments being made by an Act of the Lieutenant-Governor of Bengal in Council;

7 of 1870. And whereas the sanction of the Governor General has similarly been obtained to the amendment of the Court-fees Act, 1870,[1] which is proposed by section 7 (105) of this Act;

It is hereby enacted as follows:—

1. (J) This Act may be called the Bengal Tenancy (Amendment) Act, 1898; Short title.

[Commencement.] Rep. by the Repealing and Amending Act, 1903 (1 of 1903).

8 of 1885. 2. For clause (a) of section 30 of the Bengal Tenancy Act, 1885, the following shall be substituted, namely:— Amendment of Act 8, 1885, section 30.

(a) [Printed *ante*, p. 263.]

3. After clause (d) of section 31 of the said Act the following shall be inserted, namely:— Amendment of Act 8, 1885, section 31.

(e), (f) [Printed *ante*, p. 264.]

4. After section 31 of the said Act the following shall be inserted, namely:— Insertion of sections 31 A and 31 B in Act 8, 1885.

31A, 31B. [Printed *ante*, pp. 264, 265.]

5. After the word "correct," in sub-section (c) of section 39 of the said Act, the words "and may presume that the prices shown in the lists prepared for any year prior to the passing of this Act are correct" shall be inserted. Amendment of Act 8, 1885, section 39 (c).

6. To section 52 of the said Act the following shall be added, namely:— Amendment of Act 8, 1885, section 52.

7. For Chapter X of the said Act the following shall be substituted, namely:— New Chapter X for Act 8, 1885.

Ch. X. [Printed *ante*, p. 290.]

8 of 1885. 8. All records published under section 105 of the Bengal Tenancy Act, 1885, [2] before the commencement of this Act, whether in draft or final form, shall be deemed to have been duly published. Validation of publication of past records.

8 of 1885. 9. (I) Every settlement of rent or decision of a dispute by a Revenue-officer under section 104 or section 106 of the Bengal Tenancy Act, 1885, [2] before the commencement of this Act, in respect of which no appeal has, before the commencement of this Act, been preferred to the Special Judge Effect of settlements of rent and decisions by Revenue-officers made before the

[1] Printed in the General Acts, 1868-76, Ed. 1898, p. 124.

[2] Printed *ante*, p. 251.

THE BENGAL TENANCY (AMENDMENT) ACT, 1898. [Ben. Act 3 of 1898.]

(Sec. 10.)

THE BENGAL TENANCY (VALIDATION AND AMENDMENT) ACT, 1903. [Ben. Act 1 of 1903.]

commence-
ment of this
Act.

appointed under section 108 of that Act, shall have the force and effect of a decree of a Civil Court in a suit between the parties, and shall be final :

Provided that an appeal shall lie to the District Judge from any such settlement or decision which was made or given within thirty days before the commencement of this Act, if the appeal be presented within thirty days from the date of such settlement or decision.

(2) The provisions of the Code of Civil Procedure^[1] relating to appeals 14 of 1882, shall, as nearly as may be, apply to all such appeals.

Amendment
of Act 8, 1885,
section 119.

10. In section 119 ^[2] of the Bengal Tenancy Act, 1885, the words and 8 of 1885. figures "sections 108 A, 103 B, 106, 107, 108, 109 and 109 A" shall be substituted for the words and figures "sections 105 to 109, both inclusive."

11. [Repeal of Bengal Act 5, 1894.] *Rep. by the Repealing and Amending Act, 1903 (1 of 1903).*

THE BENGAL TENANCY (VALIDATION AND AMENDMENT) ACT, 1903

(BENGAL ACT 1 OF 1903). ^[3]

[25th February, 1903.]

An Act to validate certain transfers, made under the Bengal Tenancy Act, 1885,^[4] of permanent tenures and holdings at fixed 8 of 1885. rents or fixed rates and of shares in the same; and to amend section 106 of that Act.

WHEREAS doubts and difficulties have arisen respecting the meaning and effect of sections 12, 13, 17 and 18 of the Bengal Tenancy Act, 1885, ^[4] 8 of 1885. as regards the payment of the prescribed landlord's fee and the effect of the non-payment of such fee;

And whereas it is expedient to declare that registered transfers and sales and decrees or orders for foreclosure of mortgage, confirmed and made

[1] Printed in the General Acts, 1882-1884, Ed. 1898, p. 262.

[2] Printed *ante*, p. 304.

[3] LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1902, Pt. IV, p. 21; for Report of Select Committee, *ibid*, Pt. IV, p. 36; for Proceedings in Council, see *ibid*, Pt. IV A, pp. 85 and 89 and Calcutta Gazette, 1903, Pt. IV A, p. 1.

LOCAL EXTENT.—Since this Act amends the Bengal Tenancy Act, 1885 (8 of 1885), its local extent must be taken to be the same as that of the latter Act, as to which see para. (2) to (10) of foot-note on page 251, *ante*.

[4] Printed *ante*, p. 251.

[**Beng. Act 1 of 1903.**] THE BENGAL TENANCY (VALIDATION AND AMENDMENT) ACT, 1903.

(*Secs. 1, 2.*)

absolute by the Civil Courts, of permanent tenures and holdings at fixed rates and fixed rents, and of shares in such tenures and holdings, shall not be deemed to be invalid merely on the ground that the landlord's prescribed fee has not been paid;

And whereas it is also expedient to amend section 106 of the said Act in manner hereinafter appearing;

And whereas, the said Act having been passed by the Governor General of India in Council, the sanction of the Governor General has been obtained, under section 5 of the Indian Councils Act, 1892, [1] to the passing of this Act;

55 & 56 Vict.,
c. 14.

It is hereby enacted as follows :—

1. No transfer which has heretofore been made or which may hereafter be made under section 12, section 13, section 17 or section 18 of the Bengal Tenancy Act, 1885, [2] of a permanent tenure, or of a holding at a rent or rate of rent fixed in perpetuity or of a share in such tenure or holding, shall be deemed to be invalid merely on the ground that the landlord's fee prescribed by the said sections 12 or 13 has not been paid:

3 of 1885.

Validation
of transfers
of tenures and
holdings and
shares in the

Provided always that, subject to the *Explanation* following, nothing in this section shall be held to affect the decision of a Court of competent jurisdiction which has become final before the commencement of this Act.

Explanation.—A decree in a suit for rent which has become final disallowing a claim for rent on the ground that the relationship of landlord and tenant does not exist between the parties to the suit by reason of the non-payment of the landlord's fee, shall not bar a suit for rent which became payable subsequently to such claim.

2. In any case where the prescribed fee has been or may hereafter be left unpaid, the landlord may, within two years of the commencement of this Act,

Realization
of fee when
left unpaid.

or within two years of the date of registration of the document effecting the transfer,

or within two years of the date of confirmation of the sale by the Civil Court,

or within two years of the date upon which a decree or order absolute for the foreclosure of a mortgage has been or may hereafter be made by the Civil Court,

[1] Printed in the Collection of Statutes relating to India, Vol. II, 1903, p. 911.

[2] Printed *ante*, p. 251.

THE BENGAL TENANCY (VALIDATION AND AMENDMENT) ACT, 1908. [Ben. Act 1 of 1908.]

(Secs. 3-5.)

~~THE CHOTA NAGPUR TENURES ACT, 1869. [Ben. Act 2 of 1869.]~~

apply to the Collector for realization of such fee from the transferee, or from the auction-purchaser or from the person who has obtained an order absolute for foreclosure of mortgage in the Civil Court, and on such application being presented, the Collector shall realize such fee if still unpaid, together with costs of realization, from such person as if it were an arrear of revenue.

Saving of section 88.

3. Nothing in section 1 shall be deemed to affect the provisions of section 88 [1] of the said Bengal Tenancy Act, 1885.

6 of 1885.

Substitution of a new section for section 106.

4. For section 106 of the said Act, the following shall be substituted, namely :—

106. [Printed *ante*, p. 299.]

Short title.

5. This Act may be called the Bengal Tenancy (Validation and Amendment) Act, 1908.

ACTS PASSED SPECIALLY FOR CHOTA NAGPUR.^[2]

THE CHOTA NAGPUR TENURES ACT, 1869

(BENGAL ACT 2 OF 1869).

PREAMBLE.

SECTION.

1. Construction.
2. Power to appoint Commissioners.
Limits of jurisdiction.
3. Duties of Special Commissioner.
4. Powers of Special Commissioner.
5. Contents of record.
6. Power to restore persons wrongfully dispossessed.
7. Presumption as to services to be rendered.
8. Lands not to be registered if tenure commenced within twenty years.
9. Power to apply for commutation of services.
10. On such application, notice to appoint assessors to be served.

[1] Printed *ante*, p. 287.

[2] In this group are printed those Acts only which were passed specially for Chota Nagpur. Some of the preceding enactments printed under the head "Landlord and Tenant" are also in force in Chota Nagpur—see the "local extent" foot-notes to those enactments.

[3] This table has been newly added.

[Ben. Act 2 of 1869.] THE CHOTA NAGPUR TENURES ACT, 1869.

(Preamble.)

SECTION.

11. Special Commissioner to hear application with assessors.
12. Decision to be by Special Commissioner.
13. Review of decision by Special Commissioner alone.
14. Power of appeal.
15. Power to apply for review of judgment.
16. Application within a month.
17. Power to grant or refuse review.
18. Review not to be granted without notice.
19. On grant of application for review, re-hearing to be directed.
20. Decision to be final.
21. No mukhtar nor vakil to be heard.
22. [Repealed.]
23. Lieutenant-Governor may make rules.
24. Effect of judgment in suit commenced after Act passed.
25. Register to be confirmed and published.
26. Register to be conclusive evidence of matters recorded therein.
27. Short title.

THE CHOTA NAGPUR TENURES ACT, 1869

(BENGAL ACT 2 OF 1869). [1]

[17th March, 1869.]

An Act to ascertain, regulate and record certain tenures in Chota Nagpur.

WHEREAS from a very early time certain tenures have existed in Chota Nagpur, known as bhuinharri, held by persons claiming to be descendants of the original founders of the villages in which such lands are situated, or their assigns; and also certain similar tenures known as bheth-kheta, dālikatari and pahnai, consisting of lands set apart for the duties which the village "pāhan," or priest, is required to perform, and for his maintenance, and also other similar tenures known as, "mahtoai," consisting of lands allotted to the village mahto, or collector of rents;

And whereas, where the above tenures are found, there are also lands known as majbahas, reserved for the use of the respective proprietors of the villages, and at their absolute disposal, and also lands known as bheth-kheta,

[1] LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1868, page 1848, and for Proceedings in Council, see *ibid* Supplement, 1868, pages 846 and 871; Supplement, 1869, pages 16 and 80.

LOCAL EXTENT.—This Act extends only to the Chota Nagpur Division—see the title.

SAVINGS.—This Act is not affected by the Chota Nagpur Landlord and Tenant Procedure Act (Ben. Act 1 of 1876)—see s. 150 of the latter Act, s. 4, p. 399.

The powers conferred on a Special Commissioner or on the Commissioner of the Chota Nagpur Division by this Act are not affected by the Chota Nagpur Incumbered Estates Act, 1876 (6 of 1876)—see s. 24 of the latter Act, *ante*, p.

ordinarily assigned as remuneration to the villagers who work for the proprietor or his assigns on the majhabas land ;

And whereas disputes have arisen rendering it desirable that these tenures should be defined and recorded, and a register made of all rights, privileges, immunities and liabilities affecting the holders thereof ;

It is enacted as follows :—

Construction.

1. In the construction of this Act the words and expressions following shall have the meanings hereinafter in this section attributed to them respectively, unless a contrary sense be apparent from the context :

"Bhuinharri."

the word "bhuinharri" shall include the tenures mentioned in the preamble as bhet-kheta, dālikatari, pahnai and mahtoai :

"Majhabas."

the word "majhabas" shall include the tenures mentioned in the preamble as bhet-kheta :

"The Special Commissioner."

the words "the Special Commissioner" shall be taken to mean a Commissioner to be appointed for the purposes of this Act.

Power to appoint Commissioners.

2. It shall be lawful for the Lieutenant-Governor of Bengal, by an order published in the Calcutta Gazette, to appoint one or more persons, as may be judged expedient, to be a Commissioner or Commissioners for the purposes of this Act, and by an order, also published in the Calcutta Gazette, to define the limits within which each Special Commissioner so to be appointed shall exercise jurisdiction under this Act ; and from time to time, in like manner, to vary or revoke any order made by the said Lieutenant-Governor under the provisions of this Act, and to appoint some other person or persons to be Commissioners for the purposes of this Act.

Limits of Jurisdiction.

Duties of Special Commissioner.

3. Each Special Commissioner so appointed shall, with all convenient speed, investigate and ascertain the titles and tenures of all lands within the limits so assigned to him, which may be alleged by any person to be held upon bhuinharri and majhabas tenures respectively, and shall demarcate the same.

Powers of Special Commissioner.

4. In making such investigation the Special Commissioner, in addition to all powers conferred on him by this Act, shall, as far as may be necessary for the purposes of this Act, exercise all such and the same powers as are conferred by Regulation 7 of 1822, [1] and the Regulations and Acts amending the same, upon a Collector making a settlement of land-revenue.

Contents of record.

5. The Special Commissioner shall make an accurate register, in such form as may from time to time be ordered by the Lieutenant-Governor of Bengal, of the lands which he may ascertain to belong to the bhuinharri and majhabas

[1] The Bengal Land-revenue Settlement Regulation, 1822. It is printed *post*, under the head "Land-revenue."

of 1869.]

THE CHOTA NAGPUR TENURES ACT, 1869.

(Secs. 6-10.)

classes respectively; of the conditions to be fulfilled, and the rents and services to be rendered in respect of the several lands of those classes which he may ascertain to be held subject to any conditions, rents or services; and of the rights and privileges to be enjoyed in respect of any such lands.

6. In case it shall be proved to the Special Commissioner that any person, who within twenty years next before the passing of this Act held any lands of bhuinharri or majhahas tenure, has been wrongfully dispossessed of such lands, the Special Commissioner shall cause such person, or, in case of his being dead, the heir of such person, to be put in possession of such lands, and shall cause the name of the person so put in possession to be entered in the register as the occupant of the said lands on any bhuinharri or majhahas tenure, as the case may be.

Power to restore persons wrongfully dispossessed.

7. It shall be presumed that all lands which may be found under the provisions of this Act to be of bhuinharri or majhahas tenure respectively are rightly subject to the conditions, rents and services upon which such lands respectively are found to be held at the time of the inquiry made by the Special Commissioner, unless it be proved that at some former time, within twenty years before the passing of this Act, such lands were held subject to and upon other and different conditions, rents and services; in which case it shall be presumed that such lands are rightly subject to the conditions, rents and services subject to which they shall be proved to have been held at the earliest period within the said term of twenty years with respect to which such proof shall have been given.

Presumption as to services to be rendered.

8. No lands shall be registered as lands of bhuinharri or of majhahas tenure if it be proved that the occupation of such lands upon such tenure commenced within the term of twenty years before the passing of this Act, unless it be proved that such occupation was in pursuance or revival of an occupation upon such tenure rightfully enjoyed before the commencement of such term.

Lands not to be registered if tenure commenced within twenty years.

9. Whenever any lands of bhuinharri tenure are held subject to any conditions or services other than or besides the payment of a rent in money, it shall be lawful for the bhuinharri tenant of such lands, or for any person who may have the immediate right of receiving the rents and services issuing from such lands (provided such last-mentioned person has such right in perpetuity), or if there be no such person other than the zamindar then for the zamindar, to apply in writing to the Special Commissioner for the commutation of all such conditions and services other than or besides the payment of a rent in money.

Power to apply for commutation of services.

10. On receipt of any such application, the Special Commissioner shall cause to be served upon each of the persons who under the provisions of

On such application, notice to appoint

assessors to be served.

section 9 would have a right to make such application, a notice in writing requiring such person, within 10 days from the day of the service of such notice, to nominate, by notice in writing to the Special Commissioner, some person to act as assessor to the Special Commissioner in fixing the amount of rent which shall be payable in commutation for such conditions and services, and to be present before the Special Commissioner, and to cause such assessor to be there present upon some day to be named in such notice and not to be less than fifteen days from the day of the service of such notice.

Special Commissioner to hear application with assessors.

11. Upon the day which shall have been appointed by the Special Commissioner for the attendance of the parties and assessors as hereinbefore is provided, the Special Commissioner shall, with the assistance of any assessors who may have been, within the time hereinbefore respectively in that behalf mentioned, duly nominated as aforesaid, and who may be present; and, if there be no such assessors, then without such assistance proceed to consider and determine the amount of rent fairly and equitably to be payable in commutation of the conditions and services other than rent to which such tenure may be subject.

Decision to be by Special Commissioner.

12. The opinion of each assessor shall be given orally, and shall be recorded in writing by the Special Commissioner, but the decision is vested exclusively in the Special Commissioner.

Review of decision by Special Commissioner alone.

13. In case any review of any decision under section 12 may be ordered, such review shall be heard and determined by the Special Commissioner without the assistance of assessors; and in case, in consequence of any order on appeal, a further inquiry into the subject-matter of any such decision may be necessary, such further inquiry may, if he shall so think fit, be heard and determined by the Special Commissioner without the assistance of assessors.

Power of appeal.

14. Any person who may be aggrieved by any decision or order of the Special Commissioner made under this Act may appeal to the Commissioner of the division against such decision or order by a petition; but no such petition shall be received after the expiration of three months from the date of such decision or order, unless sufficient cause for the delay be shown to the satisfaction of the said Commissioner of the division, who shall have power to hear and determine the matter of every such petition of appeal.

Power to apply for review of judgment.

15. Any person considering himself aggrieved by any order or decision of the Special Commissioner from which no appeal shall have been preferred, or by any order of the Commissioner of the division in appeal, may apply for a review of judgment by the officer by whom such order or decision was made.

of 1869.]

THE CHOTA NAGPUR TENURES ACT, 1869.

(Secs. 16-23.)

16. Such application may be made within one month from the date of the order or decision, and not afterwards.

Application within a month.

17. If the Special Commissioner or the Commissioner of the division, as the case may be, shall be of opinion that there are not any sufficient grounds for a review, he shall reject the application : but if he shall be of opinion that the review desired is necessary to correct an evident error or omission, or is otherwise requisite for the ends of justice, the Special Commissioner or the Commissioner of the division, as the case may be, shall grant the review, and his order in either case, whether for rejecting the application or granting the review, shall be final.

Power to grant or refuse review.

18. No review of an order or decision shall be granted until notice shall have been given to every person who had appeared in the proceedings in which such order or decision was made, and whose interest would be injuriously affected by the review desired.

Review not to be granted without notice.

19. When an application for a review of judgment is granted, such order shall be made for re-hearing the matter in respect of which such order or decision shall have been made as may seem proper.

On grant of application for review, re-hearing to be directed.

20. No decision or order of the Special Commissioner shall be in any way altered, varied or reversed, save on review by the Special Commissioner under sections 15, 16, 17, 18 and 19 of this Act, or by appeal to the Commissioner of the division under section 14 of this Act ; and no suit shall be received in any Court to vary or set aside any such order or decision of the Special Commissioner, or any decision or order upon appeal or upon review by the Commissioner of the division, made under the provisions of this Act ; and every such decision or order upon appeal by the Commissioner of the division shall be final, unless it be altered, varied or reversed by the said Commissioner on review under sections 15, 16, 17, 18 and 19 of this Act.

Decision to be final.

21. No mukhtar nor vakil shall, without the consent of the Special Commissioner, be heard in any proceeding before such Special Commissioner.

No mukhtar nor vakil to be heard.

22. [Exemption of petitions under Act from stamp-duty.] Rep. by the Court-fees Act, 1870 (7 of 1870.)

23. It shall be lawful for the said Lieutenant-Governor from time to time to make such rules [1] and orders as to him may seem fit for regulating the practice and procedure to be followed in making the inquiries, investigations, demarcations and registers required by this Act, and all reviews thereof and appeals therefrom ; and such rules and orders, when published in the Calcutta

Lieutenant-Governor may make rules.

[1] For rules, see the Bengal Local Statutory Rules and Orders, 1903, Vol. II, p. 231.

THE CHOTA NAGPUR TENURES ACT, 1869. [Ben. Act 2 of 1869.]

(Secs. 24-27.)

Gazette, shall have the same force and effect as if the same were a portion of this Act.

Effect of judgment in suits commenced after Act passed.

24. No judgment, decree or order in any suit instituted after the passing of this Act shall be evidence in any inquiry before the Special Commissioner respecting the tenure upon which any land is held, or the rents, services or conditions to which any land is subject.

Register to be confirmed and published.

25. The register of each village, prepared under the provisions of section 5 of this Act, shall, when finally revised and corrected in accordance with any decisions and orders of the Special Commissioner and the Commissioner of the division, under this Act, be confirmed by the Commissioner of the division, and such confirmation shall be published forthwith in the Calcutta Gazette.[1]

Register to be conclusive evidence of matters recorded therein.

26. Every register to be prepared under this Act, after publication of the confirmation thereof in pursuance of the section next preceding, shall be conclusive evidence of all matters recorded in such register in pursuance of this Act; and, from and after such publication of the confirmation of the register relating to any village, no evidence shall be received that any lands in such village not mentioned in such register are of bhuinharri or of majhahas tenure.

Short title.

27. This Act shall be called the Chota Nagpur Tenures Act, 1869.

[1] For a list of notifications issued under s. 25, see the Bengal Local Statutory Rules and Orders, 1908, Vol. I, pp. 95, 96.

[Ben. Act 1 1879.] THE CHOTA NAGPUR LANDLORD AND TENANT
PROCEDURE ACT.

THE CHOTA NAGPUR LANDLORD AND TENANT
PROCEDURE ACT

(BENGAL ACT 1 OF 1879).

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[1] This Table has been newly added.

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SECTION.

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- 153. Ejectment of persons unlawfully obtaining possession of such tenancies.
- 154. Enhancement of rent.
- 155. Recovery of arrears of rent under the certificate procedure where there is a record-of-rights.
- 156. Reference of question of title to Civil Court.
- 157. Recovery of arrear of rent by suit, where there is no record-of-rights.
- 158. Joinder of parties in proceedings under section 155 or 157.
- 159. Entry of Mundari khunt-kattidari tenancies in record-of-rights.
- 160. Decision of disputes regarding entries or omissions in record-of-rights.
- 161. Appeal against such decisions.
- 162. Entry of decisions in record-of-rights.
- 163. In preparing record-of-rights, judgments, etc., in suits not to be taken as evidence that tenancies are or are not Mundari khunt-kattidari tenancies.
- 164. Record-of-rights to be conclusive evidence on the question whether a tenancy is a Mundari khunt-kattidari tenancy.

Schedule A.—[Repealed.]

SCHEDULE B.

SCHEDULE C.

SCHEDULE D.—Form of Summons to Defendant.

SCHEDULE E.—Form of Warrant of Arrest.

SCHEDULE F.—Form of Notice to accompany such Warrant.

SCHEDULE G.—Form of Security-bond for appearance of Defendant.

SCHEDULE H.—Writ of Execution against the Person.

SCHEDULE I.—Writ of Execution against Moveable Property.

THE CHOTA NAGPUR LANDLORD AND TENANT
PROCEDURE ACT

(BENGAL ACT 1 of 1879). [1]

[5th February, 1879.]

An Act to amend the procedure in suits between Landlords and Tenants in Chota Nagpur.

WHEREAS it is expedient to amend the procedure in suits between landlords and tenants in Chota Nagpur; It is enacted as follows:—

1. This Act may be called the Chota Nagpur Landlord and Tenant Procedure Act:

It extends to the territories for the time being under the administration of the Commissioner of the division of Chota Nagpur, except the district of Manbhum. * * [2]

[Commencement.] *Rep. by the Repealing and Amending Act, 1903 (1 of 1903.)*

2. In this Act, unless there be something repugnant in the subject or context,—

“civil jail” includes the civil jail of the district, and any place appointed by the Local Government for the confinement of prisoners under this Act;

“the Commissioner” and “Judicial Commissioner” mean respectively the Commissioner and Judicial Commissioner of Chota Nagpur;

“Deputy Collector” includes an Assistant Commissioner^[3] [and any Sub-Deputy Collector who is specially empowered by the Local Government to discharge the functions of a Deputy Collector under this Act];

[1] LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1877, Part IV, page 65, and for Proceedings Council, see *ibid* Supplement, 1876, page 1198, Supplement, 1878, pages 18, 262 and 275.

LOCAL EXTENT.—This Act extends only to the Chota Nagpur Division, except the district of Manbhum—see s. 1.

EXTENSION OF APPLICATION.—As to the application of the procedure of this Act for the trial of suits to certain suits under the Chota Nagpur Commutation Act, 1897 (Bengal Act 4 of 1897), see s. 9 A (9) of the latter Act, *post* p. 416.

REPRINT.—This Act has been reprinted by the Legislative Department of the Government of Bengal as modified by subsequent legislation up to the 1st March, 1904.

PENDING CASES.—S. 1 (8) of the Chota Nagpur Tenancy (Amendment) Act, 1903, (Bengal Act 5 of 1903), *post*, p. 421, declares that that Act shall, so far as may be, apply to all cases pending in any Court or before any (i.e., under the present Act) at the commencement of the Act of 1903.

[2] The words “and the Tributary ~~manbhum~~”, which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted. The words were superfluous because, the Tributary Mahals not being British Territory, the Act could not extend to them.

[3] These words in square brackets in s. 2 were inserted by the Chota Nagpur Tenancy (Amendment) Act, 1903 (Bengal Act 5 of 1903) s. 2 (1), *post*, p. 421.

of 1879.]

TENANT PROCEDURE ACT.

(Sec. 2.)

“ nazir ” means any officer of a Court authorized to serve or execute its process ;

“ section ” means a section of this Act ;

[1] (a) “ bhugut bandha mortgage ” means a transfer of the interest of a tenant in his tenancy,

for the purpose of securing payment of money advanced or to be advanced by way of loan,

upon the condition that loan, with all interest thereon, shall be deemed to be extinguished by the profits arising from the tenancy during the period the mortgage ;

[1] (b) “ Certificate Officer ” means the Certificate Officer as defined in clause (2) of section 4 of the Public Demands Recovery Act, 1895 ; [2]

Ben. Act 1 of 1895.

[1] (c) “ Deputy Commissioner ” means the Deputy Commissioner of a district, and includes any revenue-officer whom the Local Government may from time to time appoint, by name or in virtue of his office, to discharge any of the functions of a Deputy Commissioner under this Act ;

[1] (d) “ holding ” means a parcel or parcels of land held by a raiyat and forming the subject of a separate tenancy ;

[1] (e) “ landlord ” means a person immediately under whom a tenant holds, and includes the Government ;

[1] (f) “ moveable property ” includes standing crops ;

[1] (g) “ Mundari khunt-kattidar ” means a Mundari who has acquired a right to hold jungle land for the purpose of bringing suitable portions thereof under cultivation by himself or by male members of his family, and includes—

(i) the heirs male in the male line of any such Mundari, when they are in possession of such land, and

(ii) as regards any portions of such land which have remained continuously in the possession of any such Mundari and his descendants in the male line, such descendants ;

[1] Clauses (a) to (g) were added by the Chota Nagpur Tenancy (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 2 (2), *post*, p. 421.

[2] Printed in Vol. IV of this Code.

[1](h) "Mundari khunt-tenancy" means the interest of a Mundari khunt-kattidar ;

[1](j) "raiya" means a person who has acquired a right to hold land for the purpose of cultivating it by himself, or by members of his family, by hired servants, or with the aid of partners ; and includes also the successors in interest of persons who have acquired such right, but does not include a Mundari khunt-kattidar ;

Explanation.—Where a tenant of land has the right to bring it under cultivation, he shall be deemed to have acquired a right to hold it for the purpose of cultivation, notwithstanding that he uses it for the purpose of gathering the produce of it or of grazing cattle on it ;

A person shall not be deemed to be a raiya unless he holds land either immediately under a proprietor or immediately under a tenure-holder or immediately under a Mundari khunt-kattidar : In determining whether a tenant is a tenure-holder or a raiya, the Court shall have regard to local custom and to the purpose for which the right of tenancy was originally acquired ;

[1](k) "registered" means registered under any Act for the time being in force for the registration of documents ;

[1](l) "rent" includes also money recoverable under any enactment for the time being in force as if it was rent ;

[1](m) "resumable tenure" means a tenure which is held subject to the condition that it shall lapse to the estate of the grantor and be resumable by him or his successor in title—

(i) on failure of male heirs of the body of the original grantee in the male line, or

(ii) on the happening of any definite contingency other than that referred to in sub-clause (i) ;

[1](n) "tenant" means a person who holds land under another person and is, or but for a special contract would be, liable to pay rent for that land to that person ;

[1](o) "tenure" means the interest of a tenure-holder, and includes an under-tenure, but does not include a Mundari khunt-kattidari tenancy, and

[1]. Clauses (h) to (o) were added by the Chota Nagpur Tenancy (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 2 (2), *post*, p. 421.

of 1879.]

TENANT PROCEDURE ACT.

(Secs. 5, 6.)

Ben. Act 2 of
1869.

[1](p) "tenure-holder" means primarily a person who has acquired from the zamindar, or from another tenure-holder, a right to hold land for the purpose of collecting rents or bringing it under cultivation by establishing tenants on it; and includes also the successors in interest of persons who have acquired such a right, and the holders of tenures entered in the register prepared under section 5 of the Chota Nagpur Tenures Act, 1869, [2] as confirmed under section 25 of that Act; but does not include a Mundari khunt-kattidar.

3, 4. *[Enactments repealed; pending Proceedings.] Rep. by the Repealing and Amending Act, 1903 (1 of 1903).*

5. Every raiyat is entitled to receive from the person to whom the rent of the land held or cultivated by him is payable, a patta containing the following particulars:—

Raiyat entitled to a patta.

the quantity and boundaries of land; and, where fields have been numbered in a Government survey, the number of each field;

the amount of annual rent;

the instalments in which the same is to be paid;

any special conditions of the lease,

(if the rent is payable wholly or partially in kind) the proportion or quantity of produce to be delivered, and the time and manner of delivery.

6. Every raiyat who has cultivated or held land for a period of twelve years has a right of occupancy in the land so cultivated or held by him, whether it be held under patta or not, * * [3] but this rule does not apply to the classes of lands locally known as majhabas, man, or saika; nor to khamar, nijjot, or sir-land belonging to the proprietor to the estate or tenure and let by him on lease for a term or year by year.

Right of occupancy of raiyat cultivating or holding land for twelve years.

The holding of the father, or other person from whom a raiyat inherits, shall be deemed to be the holding of the raiyat within the meaning of this section.

[4] [Any land which a raiyat has from time to time received in exchange for land previously held by him shall, for the purpose of calculating, under this

[1] Clause (p) was added by the Chota Nagpur Tenancy (Amendment) Act, 1903 (Ben. Act 3 of 1903), s. 2 (2), *post*, p. 421.

[2] Printed *ante*, p. 345.

[3] The words "so long as he pays the rent payable on account of the same" were repealed by the Chota Nagpur Tenancy (Amendment) Act 1903 (Ben. Act 5 of 1903), s. 3 (1), *post*, p. 421, and are omitted.

[4] The clauses in square brackets in s. 6, on this page and the next page, were added by the same Act, s. 3(2), *post*, p. 421.

section, the period of twelve years, be to be the same land as the land which he held before the exchange.

Every raiyat who cultivates or holds land known as korkar, babbala, khandwat, sajhwat, jalsasan or ariat shall have a right of occupancy in such land, notwithstanding that he has not cultivated or held the land for a period of twelve years.]

Saving of terms of written contracts.

7. Nothing contained in [1] [the first two paragraphs of] the last preceding section shall be held to affect the terms of any written contract for the cultivation of land entered into between a landholder and a raiyat, when it contains any express stipulation contrary thereto.

Pattas to which raiyats having rights of occupancy are entitled.

8. Raiyats having rights of occupancy are entitled to receive pattas at fair and equitable rates.

In case of dispute, the rate previously paid by the raiyat shall be deemed to be fair and equitable, unless the contrary be shown in an inquiry under section 24.

Pattas to which raiyats not having rights of occupancy are entitled.

9. Raiyats not having rights of occupancy are entitled to pattas only at such rates, and on such conditions, as may be agreed on between them and the persons to whom the rent is payable.

Person granting patta entitled to counterpart engagement.

10. Every person who grants a patta is entitled to receive from the person to whom the patta is granted a kabuliyat or counterpart engagement in conformity with the terms of the patta.

The tender to any raiyat of a patta such as the raiyat is entitled to receive shall be held to entitle the person to whom the rent is payable to receive a kabuliyat from such raiyat.

Restrictions on sale of raiyats' rights under order of Court.

[2] 10A. (1) No decree or order shall be passed by any Court for the sale of the right of a raiyat in his holding, nor shall any such right be sold in execution of any decree or order :

Provided as follows :—

- (a) any holding may be sold, in execution of a decree of a competent Court, to recover an arrear of rent which has accrued in respect of the holding; and
- (b) nothing in this section shall affect the right to execute a decree for sale of a holding passed, or the terms or conditions of any contract registered, before the first day of January, 1903.

[1] These words in square brackets in s. 7 were inserted by the Chota Nagpur Tenancy (Amendment) Act, 1903 (Ben. Act 5 of 1903), s. 4, *post*, p. 421.

[2] S. 10A was inserted by the same Act, s. 5, *post*, p. 421.

of 1879.]

TENANT PROCEDURE ACT.

(Sec. 10B.)

Explanation I.—Where a holding held under joint landlords, and a decree has been passed for the share rent due to one or more, but not all of them, proviso (a) does not authorise the sale of the holding in execution of such decree.

Explanation II.—Proviso (b) does not render valid any document which is otherwise illegal or invalid, or authorises a Court to take judicial cognizance of any such document.

Explanation III.—This sub-section does not prevent the sale of a holding for the recovery, under the Public Demands Recovery Act, 1895 [1], of a loan granted for the benefit of the holding under the Land Improvement Loans Act, 1888 [2], or the Agriculturists' Loans Act, 1884 [3].

Ben. Act 1 of
1895.
19 of 1888.
12 of 1884.

(2) When a holding is sold for an arrear of rent which has accrued in respect thereof, the rent shall be a first charge on the holding.

[4] 10B. (1) No transfer by a raiyat of his right in his holding or any portion thereof by mortgage or lease for any period exceeding five years, or by sale, gift or any other contract or agreement, shall be valid to any extent: Restrictions on transfer of their rights by raiyats.

Provided that a raiyat may enter into a bhugut bandha mortgage of his holding or any portion thereof for any period not exceeding seven years.

(2) No transfer by a raiyat of his right in his holding or any portion thereof shall be binding on the landlord unless it is made with his consent in writing.

(3) No transfer in contravention of sub-section (1) shall be registered, or shall be in any way recognised as valid by any Court, whether in the exercise of civil, criminal or revenue jurisdiction.

(4) At any time after the expiration of the period for which a raiyat has, under this section, transferred his right in his holding or any portion thereof, the Deputy Commissioner may, in his discretion, on the application of the raiyat, put the raiyat into possession of such holding or portion.

(5) Nothing in this section shall affect the validity of any transfer (not otherwise invalid) of a raiyat's right in his holding or any portion thereof made *bond fide* before the first day of January, 1903.

[1] Printed in Vol. IV of this Code.

[2] Printed in the General Acts, 1882-84, Ed. 1898, p. 653.

[3] Printed in *ibid.*, p. 755.

[4] 8, 10B was inserted by the Chota Nagpur Tenancy (Amendment) Act, 1903 (Ben. 5 of 1903) s. 5, *post*, p. 421.

LANDLORD AND TENANT.
THE CHOTA NAGPUR LANDLORD AND
(Secs. 11, 12.)

[Ben. Act 1-

Penalty on
landlord levy-
ing anything
in excess of
rent or lawful
rakumats or
services.

[1] 11. (1) A landlord who, except under any special enactment for the time being in force, levies from a tenant any money in excess of the rent legally payable, with interest thereon, or any rakumats or predial services to which he is not legally entitled, shall, on the application of the tenant, be liable,

under the order of a Revenue-office not below the rank of 'Deputy Commissioner, or under the order of any officer who may be specially empowered by the Local Government in this behalf

to pay as penalty such sum as such officer thinks fit, not exceeding two hundred rupees, or, when double the amount or value of what is so levied exceeds two hundred rupees, not exceeding double that amount or value.

(2) Such sum shall be awarded to the tenant as compensation.

Receipts for
rent and in-
terest thereon.

[2] 12. (1) Every tenant who makes a payment on account of rent, or interest due thereon, or both, to a landlord shall be entitled to obtain forthwith from the landlord or his agent a signed receipt for the same, in a form prescribed by the Local Government from time to time by notification in the Calcutta Gazette.

(2) The landlord or his agent shall prepare and retain a counterfoil of the receipt in a form prescribed as aforesaid.

(3) If any landlord or his agent, without reasonable cause, fails to grant such a receipt or to prepare and retain such a counterfoil, then, on proof thereof, the Deputy Commissioner may, in a summary proceeding, by order, impose on the landlord a fine which may extend to fifty rupees in respect of each such failure; and may, in his discretion, award to the tenant, by way of compensation, such portion of the fine as the Deputy Commissioner may think fit.

(4) If, in any suit or other proceeding under this Act or any other law, the Court or presiding officer (not being the Deputy Commissioner) finds that any landlord or agent has failed

(a) to deliver to a tenant a receipt in the prescribed form as aforesaid, or

(b) to prepare and retain a counterfoil in the prescribed form of a receipt delivered to a tenant as aforesaid,

such Court or officer shall inform the Deputy Commissioner.

[1] This section was substituted for the original s. 11 by the Chota Nagpur Tenancy (Amendment) Act, 1903 (Ben. Act 5 of 1903), s. 6, *post*, p. 421.

[2] This section was substituted for the original s. 12 by the same Act, s. 7, *post*, p. 421. The original s. 12 ran as follows:—

"12. Receipts for rent shall specify the year or years on account of which the rent is acknowledged to have been paid; and any person usual to make such specification shall be held to be a withholding of a receipt."

of 1879.]

TENANT PROCEDURE ACT.

(Secs. 13, 14.)

13. If any under-tenant, [1] [raiyat or Mundari khunt-kattidar] shall, at the mál-cutocherry for the receipt of rent or other place where the rents of the land held or cultivated by him are usually payable, tender payment of what he shall consider to be the full amount of rent due from him at the date of the tender to the zamindar or other person in receipt of the rent of such land, and if the amount so tendered shall not be accepted, and a receipt in full forthwith granted,

Deposit of
rent in Court,

the under-tenant, [1] [raiyat or Mundari khunt-kattidar] may, whether a suit shall have been instituted against him or not, within one month from the date of such tender, deposit such amount in the Court of the Deputy Commissioner, having jurisdiction to enquire in a suit [2] [or application] for such rent, to the credit of the zamindar or other person aforesaid ;

and such deposit shall, so far as the under-tenant, [1] [raiyat or Mundari khunt-kattidar] and all persons claiming through or under him are concerned, in all respects operate as, and have the full effect of, a payment then made by the under-tenant, [1] [raiyat or Mundari khunt-kattidar] of the amount deposited to the credit of such zamindar or other person.

[3] [A deposit may be made under this section in either of the following cases, namely :—

(a) when an under-tenant, raiyat or Mundari khunt-kattidar who is bound to pay money on account of rent has reason to believe, owing to a tender having been refused or a receipt withheld on a previous occasion, that the person to whom his rent is payable will not be willing to receive it and to grant him a receipt for it ; or

(b) when the rent is payable to co-sharers jointly, and the tenant is unable to obtain the joint receipt of the co-sharers for the money, and no person has been empowered to receive the rent on their behalf.]

14. The Deputy Commissioner shall receive such deposit on the written application of the under-tenant, [4] [raiyat or Mundari khunt-kattidar] or his agent ;

Proceedings
on receipt of
deposit, and
payment of

[1] The words "raiyat or Mundari khunt-kattidar" in s. 13, were substituted for the words "or raiyat" by the Chota Nagpur Tenancy (Amendment) Act, 1903 (Sen. Act 5 of 1903), s. 8 (1), *post*, p. 421.

[2] The words "or application" in s. 13 were inserted by the same Act, s. 8 (2), *post*, p. 421.

[3] These clauses in square brackets in s. 13 were added by the same Act, s. 8 (3), *post*, p. 422.

[4] The words "raiyat or Mundari khunt-kattidar," in s. 14, were substituted for the words "or raiyat" by the same Act, s. 9 (1), *post*, p. 422.

and, on the under-tenant, [1] [raiya or Mundari khunt-kattidar,] or his agent, making a declaration, in the form, or, as nearly as circumstances will admit, in the form, set forth in Schedule B hereto annexed, the Deputy Commissioner shall give a receipt for the same.

The Deputy Commissioner shall, within 7 days from the date of the deposit, issue a notice to the person to whose credit it has been deposited, in the form set forth in Schedule C hereto annexed.

If the person to whom such notice is issued, or his duly authorized agent, shall appear and apply that the money in deposit be paid to him, it shall be immediately made over to him.

[2] [If no payment is made under this section before the expiration of three years from the date on which the deposit was made, the amount deposited may, in the absence of any order of a Civil Court to the contrary, be repaid to the depositor upon his application and on his returning the receipt given by the Deputy Commissioner.]

Limitation of suit or application for rent due prior to deposit.

15. Whenever such deposit shall have been made, no suit shall be brought, [3] [and no application for a certificate under section 155 shall be made], against the person making the same, or his representatives, on account of any rent which accrued due prior to the date of the deposit, unless such suit be instituted [4] [or application made] within six months from the date of the service of the notice mentioned in the last preceding section.

Prohibition of irregular compulsion for payment of rent.

16. All zamindars and other landholders are prohibited from compelling the attendance of their tenants for the adjustment of their rents or for any other purpose, and from adopting any means of compulsion for enforcing payment of the rent due to them other than those authorized by this Act.

Damages for extorting payment of rent or interest by duress.

17. If payment of rent [5] [or interest thereon], whether the same be legally due or not, is extorted from any under-tenant, [6] [raiya or Mundari khunt-kattidar] by illegal confinement or other duress, such under-tenant, [6] [raiya or Mundari khunt-kattidar] shall be entitled to recover such damages

[1] The words "raiya or Mundari khunt-kattidar" by the Chota Nagpur Tenancy (Amendment) Act, 1908, p. 422.

[2] This clause was added to s. 14 by the same Act, p. 422.

[3] These words and figures in square brackets were inserted by the same Act, p. 422.

[4] The words "or application made" in s. 15

[5] The words "or interest thereon" in s. 17 (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 11 (a), post, p. 422.

[6] The words "raiya or Mundari khunt-kattidar" by the same Act, s. 11 (b), post, p. 422.

"in s. 14 were substituted for the words (b) Act, 1908 (Ben. Act 5 of 1908), s. 9 (1),

s. 9 (2), post, p. 422.

s. 15 were inserted by the same Act, s. 10,

inserted by the same section.

inserted by the Chota Nagpur Tenancy (Amendment) Act, 1908, s. 11 (a), post, p. 422.

"in s. 17, were substituted for the words

of 1879.]

TENANT PROCEDURE ACT.

(Secs. 18-23.)

not exceeding two hundred rupees, as may be deemed a reasonable compensation for the injury done him by such extortion.

An award of compensation under this section shall not bar or affect any penalty or punishment to which the person practising such extortion may be subject by law.

18. No dependent talukdar or other person possessing a permanent transferable interest in land, intermediate between the proprietor of an estate and the raiyats, who holds his taluk or tenure otherwise than under a terminable lease) at a fixed rent which has not been changed from the time of the Permanent Settlement, shall be liable to any enhancement of such rent, anything in section 51, Regulation 8, 1793 [1], or in any other law, to the contrary notwithstanding.

Dependent talukdar, etc., when not liable to enhancement of rent.

19. No tenant of lands known as bhuinhari or khudkatti shall be liable to any enhancement of the rent previously paid by him for such lands, unless it be shown that the tenure has been created within twenty years before the institution of the suit to enhance the rent of the said lands ;

Enhancement of rent of bhuinhari and khudkatti lands.

and, where enhancement of the rent of such tenure is decreed, the rent assessed shall not exceed one-half of the rent paid by an ordinary raiyat with a right of occupancy on the same class of land with similar advantages.

20. No tenant of lands known as korkar, bahbala, khandwat, sajhwat, jalsasan and ariat shall be liable to any enhancement of rent except under the terms of a written contract, or in accordance with the general custom prevailing with respect to such lands in the village in which they are situated.

Enhancement of the rent of korkar, etc., lands.

21. No other under-tenant or raiyat having a right of occupancy shall be liable to any enhancement of the rent previously paid by him otherwise than in the manner provided by the three next succeeding sections.

Procedure for enhancement of rent.

[2] 22. Any person wishing to enhance the rent previously paid to him by any such under-tenant or raiyat may present a petition to the Deputy Commissioner to assess the rent on the land in respect of which such enhancement is sought, and (if necessary) to measure the same.

Petition to Deputy Commissioner for enhancement of rent.

[2] 23. Such petition shall specify-

the present rent of the under-tenant or raiyat against whom the application is made ;

Particulars to be specified in such petition.

the general rate prevailing in the village for different classes of lands ;

[1] The Bengal Decennial Settlement Regulation, 1793. It is printed *post*, under the head "Land-revenue."

[2] Secs. 22 and 23 are applicable to proceedings for the enhancement of the rent of Mundari khunt-kattidari tenancies - see s. 154 (3), *post*, p. 401.

the date (as nearly as it can be ascertained) when the rate was last adjusted in the village ;

the rate which the applicant has to demand, and

the grounds on which he claims that he is entitled to enhancement.

The provisions of sections 49 and 50 shall apply to all such applications.

Procedure of receipt of such petition.

[1] 24. On receipt of such petition the Deputy Commissioner shall forthwith give notice of the contents thereof to the under-tenant or raiyat holding the land in respect of which enhancement is sought, and may (if necessary) order the same to be measured,

and may, upon consideration of all the circumstances set forth in the petition, and after hearing any objection which may be advanced against the proposed enhancement by the said under-tenant or raiyat, fix such enhanced rent, or may otherwise alter or vary the rent for the said land, as to him may seem fair and reasonable, for such period, not being less than ten nor more than twenty years, as he may think fit ;

and the rent so fixed or varied shall be payable by such under-tenant or raiyat from the commencement of the local year following the year in which the order is passed, and may be recovered in any suit preferred against him for arrears of the same :

Provided that nothing in this section shall be held to bar the right of such under-tenant or raiyat to claim at any time an abatement of the rent previously paid by him under the provisions of section 27.

25 & 26. [Commutation of conditions or services ; determination of rent payable in commutation.] Rep. by the Chota Nagpur Commutation Act, 1897, (Ben. Act 4 of 1897).

Petition to Deputy Commissioner for abatement of rent.

27. Any under-tenant or raiyat having a right of occupancy and wishing to claim an abatement of the rent previously paid by him may present a petition to the Deputy Commissioner to assess the rent on the land in respect of which such abatement is sought and (if necessary) to measure the same.

Such petition shall specify the particulars mentioned in section 23 and the grounds on which such under-tenant or raiyat considers that he is entitled to such abatement.

The provisions of sections 49 and 50 shall apply to all such applications.

Procedure on receipt of such petition.

28. On receipt of such petition, the Deputy Commissioner shall forthwith give notice of the contents thereof to the person to whom the rent of such under-tenant or raiyat is payable,

[1] S. 24 is applicable to proceedings for the enhancement of the rent of Mundari khunt-khatidari tenancies—see s.154 (3), *post*, p. 401.

of 1879.]

TENANT PROCEDURE ACT.

(Secs. 28A, 28B.)

and may (if necessary) order the land to be measured,

and may proceed, as prescribed by section 24, to fix such abatement of rent, or may otherwise alter or vary the rent for the land of such under-tenant or raiyat, as to him may seem fair and reasonable, for such period, not being less than ten nor more than twenty years, as he may think fit;

and the rent so fixed or varied shall be payable by such under-tenant or raiyat from the commencement of the local year following the year in which the order is passed, and may be recovered in any suit preferred against him for arrears of the same :

Provided that nothing in this section shall be held to bar the right of the person to whom the rent of such under-tenant or raiyat is payable to claim at any time an enhancement of the rent of such under-tenant or raiyat under the provisions of section 22.

[1] 28A. When an order has been made, under any law for the time being in force, directing the preparation of a record-of-rights, then notwithstanding anything contained in the foregoing sections, the Deputy Commissioner shall not,—

Stay of proceedings before Deputy Commissioner during preparation of record-of-rights.

(a) where a settlement of land-revenue is being or is about to be made—until after the final publication of the record-of-rights, and

(b) where a settlement of land-revenue is not being made or is not about to be made—until three months after the final publication of the record-of-rights,

entertain any suit or application for the alteration of the rent or the determination of the status of any tenant in the area to which the record-of-rights applies.

[1] 28B. (1) When the rent of a tenure or holding is entered in any such record-of-rights as finally published, then, notwithstanding anything contained in the foregoing sections,

Period for which rents, as entered in record-of-rights, are to remain unaltered.

such rent shall not, except on the ground of a landlord's improvement or of a subsequent alteration in the area of the tenure or holding, be enhanced, in the case of a tenure or an occupancy holding, for seven years, and in the case of a non-occupancy holding, for five years,

and no such rent shall be reduced within the periods aforesaid, save on the ground of alteration in the area of the holding or on the ground that the soil

[1] Ss. 28A and 28B were inserted by the Chota Nagpur Tenancy (Amendment) Act, 1903 (Ben. Act 5 of 1903), s. 12, *post*, p. 422.

of the holding has, without the fault of the raiyat, become permanently deteriorated by a deposit of sand or other specific cause, sudden or gradual.

(2) The said periods of seven years and five years shall be counted from the date of the final publication of the said record-of-rights.

Relinquish-
ment of land
by raiyat.

29. Any raiyat may relinquish the land held or cultivated by him, provided he gives notice of his intention in writing to the person entitled to the rent of the land, or his authorized agent, in or before the month of *Pausk* [1] of the year preceding that in which the relinquishment is to have effect.

If he fails to give such notice, and the land is not let to any other person, he shall continue liable for the rent of the land.

If the person entitled to the rent of the land, or his agent, refuses to receive any such notice and to sign a receipt for the same, the raiyat may make an application to the Deputy Commissioner, who shall thereupon cause the notice to be served on such person or his agent.

What to be
deemed arrear
of rent under
act.

30. Any instalment of rent which is not paid on or before the day when the same is payable according to the patta or engagement, or, if there is no written specification of the time of payment, at or before the time when such instalment is payable according to established usage, shall be held to be an arrear of rent under this Act;

Interest on
arrears.

and, in the absence of any written agreement to the contrary, shall be liable to interest at [2] [six-and-a-quarter] *per centum per annum*.

Ejection of
non-occu-
pancy raiyat
for arrears of
rent.

[3] 31. Where an arrear of rent remains due from a non-occupancy raiyat at the end of the Bengali [4] or *Sambat* [5] year, where that year prevails, or at the end of the month of *Jeth* [6] where the *Fasli* or *Wilayati* year prevails, the landlord may, whether he has obtained a decree for the recovery of the arrear or not, and whether he is entitled by the terms of any contract to eject the tenant for arrears or not, institute a suit to eject the raiyat.

[1] The month of *Pausk* corresponds with the last part of December and the first part of January.

[2] The words "six-and-a-quarter" in s. 30 were substituted for the word "six" by the Chota Nagpur Tenancy (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 13, *post*, p. 422.

[3] This section was substituted for the original s. 31 by s. 14 of the same act, *post*, p. 422. The original s. 31 ran as follows:—

"31. When an arrear of rent remains due from any raiyat at the end of the Bengali or *Sambat* year, or at the end of the month of *Jeth* of the *Fasli* or *Wilayati* year, as the case may be, such raiyat shall be liable to be ejected from the land in respect of which the arrear is due, but only in execution of a decree or order passed under the provisions of this Act."

[4] i.e., the month of *Chaitra*, which corresponds with the last part of March and the first part of April.

[5] i.e., the month of *Pausk*, which corresponds with the last part of December and the first part of January.

[6] The month of *Jeth* corresponds with the last part of May and the first part of June.

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TENANT PROCEDURE ACT.

(Secs. 32-33.)

32. When an arrear of rent is adjudged to be due from any farmer or other lease-holder not having a permanent or transferable interest in the land, the lease of such lease-holder shall be liable to be cancelled, and the lease-holder to be ejected :

Ejection of lease-holder and cancellation of lease, for arrears.

Provided that no such lease shall be cancelled, nor the lease-holder ejected, otherwise than in execution of a decree or order under the provisions of this Act.

Ben. Act 5 of 1903.

[1] 32A. If any raiyat, after the commencement [2] of the Chota Nagpur Tenancy (Amendment) Act, 1903, [3] uses the land comprised in his holding in a manner which renders it unfit for the purposes of the tenancy, he shall be liable to be ejected from the land, but only in execution of a decree or order passed under the provisions of this Act.

Ejection of raiyat for misuse of land.

33. Every proprietor of an estate, [4] [tenure or Mundari khunt-kattidari tenancy], or other person in receipt of the rents of an estate, [4] [tenure or Mundari khunt-kattidari tenancy], has a right to make a general survey or measurement of the lands comprised in such estate, [5] [tenure or tenancy,] unless restrained from doing so by express engagement with the occupants of the lands.

Measurement of lands.

If any person intending to measure any land which he has a right to measure is opposed in making such measurement by the occupant of the land,

or if any under-tenant, [6] [raiyyat or Mundari khunt-kattidar], having received notice of the intended measurement of land held or cultivated by him, which is liable to such measurement, refuses to attend and point out such land,

such person may make application to the Deputy Commissioner ;

and the Deputy Commissioner shall thereupon proceed to inquire into the case in the manner provided for suits under this Act, and shall pass an order either allowing or disallowing the measurement and, if the case so require,

[1] S. 32A was inserted by the Chota Nagpur Tenancy (Amendment) Act, 1903 (Ben. Act 5 of 1903), s. 15, *post*, p. 422.

[2] The 4th November, 1903.

[3] Printed, *post*, p. 420.

[4] The words "tenure or Mundari khunt-kattidari tenancy," in s. 33, were substituted for the words "or tenure" by the Chota Nagpur Tenancy (Amendment) Act, 1903 (Ben. Act 5 of 1903), s. 16 (a), *post*, p. 422.

[5] The words "tenure or tenancy," in s. 33, were substituted for the words "or tenure" by s. 16 (b) of the same Act, *post*, p. 422.

[6] The words "raiyyat or Mundari khunt-kattidar," in s. 33, were substituted for the words "or raiyat" by s. 16 (c) of the same Act, *post*, p. 422.

enjoining or excusing the attendance of any such under-tenant, [1] [raiya or Mundari khunt-kattidar].

If any under-tenant, [1] [raiya or Mundari khunt-kattidar,] after the issue of an order enjoining his attendance, neglects to attend, it shall not be competent to him to contest the correctness of the measurement made in his absence.

Registration
of certain
transfers of
tenures.

[2] 34. (1) When any tenure or portion thereof is transferred by succession, inheritance, sale, gift, mortgage or exchange, the transferee or his successor in title shall cause the transfer to be registered [3] in the sarishta of the zamindar or superior tenant to whom the rent of the tenure or portion is payable.

(2) Every zamindar or superior tenant shall, in the absence of sufficient reasons to the contrary, admit to registry and otherwise give effect to all such transfers.

(3) Whenever any such transfer of a tenure or portion of a tenure is registered in the sarishta of the zamindar or superior tenant, he shall be entitled to levy a registration-fee of the following amount, namely:—

- (a) when rent is payable in respect of the tenure or portion—a fee of two *per centum* on the annual rent thereof: provided that no such fee shall be less than one rupee or more than one hundred rupees, and
- (b) when rent is not payable in respect of the tenure or portion—a fee of two rupees.

(4) Every application for the registration of a transfer under sub-section (1) must be made, in the case of a transfer which occurred before the commencement [4] of the Chota Nagpur Tenancy (Amendment) Act, 1903, [5] within one year from such commencement, and, in the case of a transfer occurring after such commencement, within one year from the date of the transfer.

Ben. Act 5 of
1903.

(5) If application for the registration of any transfer of a tenure or portion thereof is not made, and the registration-fee paid or tendered, as hereinbefore prescribed, the transferee or his successor in title shall not be entitled to recover, by suit or other proceeding, any rent payable to him as the holder of

[1] The words "raiya or Mundari khunt-kattidar," in s. 33, were substituted for the words "or raiyat" by the Chota Nagpur Tenancy (Amendment) Act, 1903 (Ben. Act 5 of 1903), s. 16 (c), *post*, p. 422.

[2] This section was substituted for the original s. 24 by the same Act, s. 17, *post*, p. 423.

[3] As to this registration, *see* the Government Estates Manual, 1902, p. 61.

[4] The 4th November, 1903.

[5] Printed *post*, p. 420.

of 1879.]

TENANT PROCEDURE ACT.

(Secs. 35, 36A.)

the tenure or portion which may have accrued due between the date of the transfer and the date of the application for registration,

(6) Nothing in this section shall be construed—

(i) to validate a transfer of any tenure or portion thereof which, by the terms upon which it is held or by any law or any custom having the force of law, is not transferable, or

(ii) if a tenure is resumable, to affect the right of the zamindar or superior tenant to resume it.

(7) The mere registration of a transfer, or the mere levy of a registration fee, under this section, shall not be deemed to imply a consent to, or permission to make, the transfer, within the meaning of section 36A; and the zamindar or superior tenant shall not be bound by the terms or conditions of any such transfer.

35. [Certain provisions applied to sale of under-tenures.] Rep. by the Chota Nagpur Tenancy (Amendment) Act, 1903 (Ben. Act 5 of 1903), s. 18.

36. If any zamindar or superior tenant refuses to admit to registry or otherwise to give effect to any such transfer as is mentioned in [1] [section 34], the transferee [2] [or his successor in title] may make application to the Deputy Commissioner; and the Deputy Commissioner shall thereupon proceed to inquire into the case in the manner provided for suits under this Act; and, if no sufficient grounds are shown for the refusal, shall pass an order enjoining the zamindar or superior tenant to admit to registry and otherwise give effect to such transfer:

Procedure on refusal of zamindar to register transfer of tenure.

Provided that no zamindar or superior tenant shall be required to admit to registry or give effect to any division or distribution of the rent payable on account of any such tenures, nor shall any such division or distribution of rent be valid without the consent in writing of the zamindar or superior tenant.

[3] 36A. (1) Upon the resumption of a resumable tenure, every lien, sub-tenancy, easement, or other right or interest created, without the consent or permission of the grantor or his successor in interest, by the grantee or any

Annulment of Incumbrances on resumption of resumable tenure.

[1] The word and figures "section 34," in s. 36, were substituted for the words "the two last preceding sections" by the Chota Nagpur Tenancy (Amendment) Act, 1903 (Ben. Act 5 of 1903), s. 19 (1), *post*, p. 423.

[2] The words "or his successor in title," in s. 36, were inserted by the same Act, s. 19 (2), *post*, p. 423.

[3] S. 36A was inserted by the same Act, s. 20, *post*, p. 423.

of his successors, on the tenure, or in limitation of his own interest therein, shall be deemed to be annulled, except the following, namely :—

- (a) any lease of land whereupon a dwelling house, manufactory or other permanent building has been erected, or a permanent garden, plantation, tank, canal, place of worship or burning or burying ground has been made, or wherein a mine has been sunk under lawful authority ;
- (b) any right of occupancy ;
- (c) any right to hold land known as korkar, bahbala, khandwat, sajhwat, jalsasan or ariat ;
- (d) any right to hold land occupied by a sacred grove, and
- (e) any Mundari khunt-kattidari tenancy.

(2) Nothing in clause (a) shall be construed to confer on any grantee of a resumable tenure, or any of his successors, any right over minerals which he does not otherwise possess.

Cognizance
of suits by
Deputy Com-
missioner.

37. (1) All suits for the delivery of pattas or kabuliyats, or for the determination of the rates of rent at which such pattas or kabuliyats are to be delivered ;

(2) all suits for damages * * * * [1] on account of the extortion of rent [2] [or interest thereon] by confinement or other duress ;

(3) all complaints of excessive demand of rent, and all claims to abatement of rent ;

(4) all suits for arrear of rent due on account of land, either rent-paying or rent-free, or on account of any rights of pasturage, forest-rights, fisheries or the like ;

(5) all suits to eject any raiyat or to cancel any lease on account of the non-payment of arrears of rent, or on account of a breach of the conditions of any contract by which a raiyat may be liable to ejectment or a lease may be liable to be cancelled ;

[3] [(5a) all suits to eject a raiyat on account of the use of land comprised in his holding in a manner which renders it unfit for the purpose of the tenancy ;]

[1] The words "on account of the illegal exaction of rent or of any unauthorised cess or impost or on account of the refusal of receipts for rent paid or," in s. 37 (2), were repealed by the Chota Nagpur Tenancy (Amendment) Act, 1903 (Ben. Act 5 of 1903), s. 21 (1), *post*, p. 423, and are omitted.

[2] The words "or interest thereon," in s. 37 (2), were inserted by the same Act, s. 21(2), *post*, p. 423.

[3] Clause (5a) was inserted by the same Act, s. 21 (3), *post*, p. 423.

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(6) all suits to recover the occupancy or possession of any land, farm or tenure, from which a raiyat, farmer or tenant has been illegally ejected by the person entitled to receive rent for the same;

(7) all suits by zamindars and others in receipt of the rent of land, against any agents employed by them in the management of land or collection of rents, or the sureties of such agents, for money received or accounts kept by such agents in the course of such employment, or for papers in their possession,

shall be cognizable by the Deputy Commissioner, and shall be instituted and tried under the provisions of this Act, and shall not be cognizable in any other Court, except in the way of appeal as provided in this Act.

38. The Deputy Commissioner may, with the consent of the parties, refer any suit under this Act to arbitration; and the provisions of sections 506 to 522 (both inclusive) of the Code of Civil Procedure [1] shall, as far as may be practicable, apply to such references.

Reference to arbitration.

39. [2] [Subject to such rules (if any) as may from time to time be made by the Local Government in this behalf], in every suit under this Act of the nature of those specified in the first, second, third or fourth clauses of section 37, and in applications for enhancement, abatement or measurement under sections 22, 27, [3] [33 or 154], any number of raiyats or other tenants may sue or be sued collectively, and it shall be no ground for dismissing the suit or refusing to hear the application that such raiyats or other tenants are wrongly joined as plaintiffs or defendants, provided that all such raiyats or other tenants hold land in the same village;

Collective suits or applications for recovery of rent.

but no order shall be passed in such case unless the officer making the same is satisfied that all parties have had an opportunity to appear and make objection to any claims preferred against them;

and if at any time it shall appear to the Deputy Commissioner that the question between any two of the parties of whom one is so joined with others cannot conveniently be so jointly tried, the Deputy Commissioner may order a separate trial to be held.

40. Every order passed in any such case as is mentioned in the first clause

Order under section 39 to

[1] This reference to ss. 506 to 522 of Act 10 of 1877 should now be read as applying to ss. 506 to 522 of Act 14 of 1882—see s. 3 of the latter Act, printed in the General Acts, 1882-84, Ed. 1898, p. 264.

[2] These words in square brackets in s. 39 were inserted by the Chota Nagpur Tenancy (Amendment) Act, 1903 (Ben. Act 5 of 1903), s. 22 (1), post, p. 423.

[3] The figures and word "33 or 154," in s. 39, were substituted for the word and figures "or 33" by the same Act, s. 22 (2), post, p. 423.

specify how far it affects each raiyat.

Suits by or against sarbarakars or tahsildars of estates held khas.

General rule for limitation of suits.

Limitation of suits for grant of pattas, etc.

Limitation of suits and applications for arrears of rent.

Successive suits or applications for recovery of rent.

Limitation of suits against agents for

of the last preceding section shall specify the extent to which each of the raiyats or other tenants named in the order shall be affected thereby.

41. All suits which under this Act may be brought by or against zamindars or other persons in the receipt of the rent of land may be brought by or against sarbarakars or tahsildars of estates held under khas management, whether such estates are the property of Government or of individuals.

42. Except as otherwise herein provided, all suits instituted under this Act shall be commenced within the period of one year from the date of the accruing of the cause of action.

43. Suits for the delivery of pattas or kabuliya, and for the determination of the rates of rent at which such pattas or kabuliya are to be delivered, may be instituted at any time during the tenancy.

44. Suits, [1] [and applications under section 155], for the recovery of arrears of rent shall be instituted within three years from the last day of the Bengal [2] or *Sambat* [3] year, or from the last day of the month of *Jeth* [4] of the *Fasli* or *Wilayati* year, in which the arrear claimed shall have become due :

Provided that if the suit [5] [or application] be for the recovery of rent at a higher rate than was payable in the previous year, such rent not having been enhanced by the Deputy Commissioner under this Act, the suit [5] [or application] shall be instituted within three months from the end of the Bengal [2] or *Sambat* [3] year, or of the month of *Jeth* [4] of the *Fasli* or *Wilayati* year, on account of which such enhanced rent is claimed.

[6] 44A. Where a landlord has instituted a suit, or applied for a certificate under section 155, against a raiyat or a Mundari khunt-kattidar, for the recovery of any rent of his tenancy, the landlord shall not institute another suit or apply for another such certificate against him for the recovery of any rent of that tenancy until after six months from the date of the institution or making of the previous suit or application.

45. Suits for the recovery of the money in the hands of an agent, or for the delivery of accounts or papers by an agent, may be brought at any time

[1] The words and figures "and applications under section 155," in s. 44, were inserted by the Chota Nagpur Tenancy (Amendment) Act, 1903 (Ben. Act 5 of 1903), s. 23 (a), *post*, p. 428.

[2] i. e., the month of *Chaitra*, which corresponds with the last part of March and the first part of April.

[3] i. e., the month of *Pausa*, which corresponds with the last part of December and the first part of January.

[4] The month of *Jeth* corresponds with the last part of May and the first part of June.

[5] The words "or application," in s. 44, were inserted by the Chota Nagpur Tenancy (Amendment) Act, 1903 (Ben. Act 5 of 1903), s. 23 (b), *post*, p. 428.

[6] S. 44A was inserted by the same Act, s. 24 *post*, p. 428.

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during the agency, or within one year after the determination of the agency of such agent : money, papers or accounts.

Provided that if the person having the right to sue shall, by means of fraud, have been kept from the knowledge of the receipt of any such money by the agent, or if any fraudulent account shall have been rendered by the agent, the suit may be brought within one year from the time when the fraud shall have been first known to such person ; but no such suit shall in any case be brought at any time exceeding three years from the termination of the agency.

46. Suits under this Act shall be instituted by presenting to the Deputy Commissioner a plaint or statement of claim which shall contain— Institution of suits.

the name, description and place of abode of the plaintiff ;

the name, description and place of abode of the defendant, so far as they can be ascertained ; Form of statement of claim.

the substance of the claim, and

the date of the cause of action.

47. If the suit is for the recovery of an arrear of rent, the statement of claim shall specify— Additional particulars in statement of claim in suit for arrears of rent.

the name of the village and estate ;

the name of the pargana or other local division in which the land is situated ;

(if the arrear is alleged to be due from any raiyat [1] [or Mundari khunt-kattidar]), the quantity of land ;

(where fields have been numbered in a Government survey) the number of each field ;

the yearly rent of the land ;

the amount (if any) received on account of the year for which the claim is made ;

the amount in arrear, and the time in respect of which it is alleged to be due.

48. If the suit is for the ejectment of a raiyat, farmer or tenant from any land, farm or tenure, or for the recovery of the occupancy or possession of any land, farm or tenure, the statement of claim shall specify (as circumstances may require) the extent, situation and designation of the same, and (if necessary for the identification of the land) the boundaries of such land. Additional particulars in statement of claim in suit for ejectment or for recovery of occupancy or possession.

49. The statement of claim shall be presented by the plaintiff, or by an Statement of claim by

[1] The words "or Mundari khunt-kattidar." in s. 47, were inserted by the Chota Nagpur Tenancy (Amendment) Act, 1903 (Ben. Act 5 of 1903), s. 25, *post*, p. 423.

whom to be
presented.

authorized agent of the plaintiff who has personal knowledge of the facts of the case, or by an agent who shall be accompanied by a person who has such knowledge.

Signature
and verifica-
tion of state-
ment of claim.

50. The statement of claim shall be subscribed and verified at the foot by the plaintiff or his agent in the manner following, or to the like effect:—

“ I, A. B., do declare that the above statement is true to the best of my knowledge and belief.”

Production
of documents
by plaintiff.

51. If the plaintiff relies in support of his claim on any document in his possession, he shall deliver the same to the Deputy Commissioner at the time of presenting his statement of claim.

Unless such document be delivered or its non-production be sufficiently excused, or unless the Deputy Commissioner see fit, to extend the time for producing the same, it shall not afterwards be admitted.

Production
of documents
by defendant.

52. If the plaintiff requires the production of any document in the possession or power of the defendant, he may, at the time of presenting his statement of claim, deliver to the Deputy Commissioner a description of the document in order that the defendant may be required to produce the same.

Return or
amendment of
statement of
claim.

53. If the statement of claim does not contain the several particulars hereinbefore required to be specified therein, or is not subscribed and verified, as hereinbefore required, the Deputy Commissioner may return the statement to the plaintiff, or, at his discretion, allow it to be amended.

Issue of
summons.

54. If the statement of claim is in proper form, the Deputy Commissioner, except as otherwise hereinafter specially provided, shall direct the issue of a summons to the defendant ;

Personal
attendance of
defendant.

and if the plaintiff requires the personal attendance of the defendant, and satisfies the Deputy Commissioner that such personal attendance is necessary, or the Deputy Commissioner of his own accord requires such personal attendance, the summons shall contain an order for the defendant to appear personally on a day to be specified in the summons ; otherwise the summons shall order the defendant to appear personally or by an agent, duly authorized on his behalf, who has personal knowledge of the subject or who shall be accompanied by a person who has such personal knowledge.

Fixing of
day for hear-
ing.

55. The day to be specified in the summons shall be fixed with reference to the state of the file and the distance that the defendant may be, or be supposed to be, at the time from the place where the Court is held ;

Production
of documents
and witnesses.

and the summons shall order the defendant to produce any document which he may have in his possession, of which the plaintiff demands inspection, or upon which the defendant may intend to rely in support of his defence.

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It shall also enjoin him to bring with him his witnesses if they are willing to attend without issue of process, and shall be in the form contained in Schedule D hereto annexed, or to the like effect.

56. The amount of the cost of serving the summons, or, if a warrant is issued as provided in the next succeeding section, of serving the warrant, shall in all cases be deposited in Court upon the same day or the day next following that on which the plaint or statement of claim is presented to the Deputy Commissioner.

Deposit of cost of serving summons or warrant.

If the said amount be not so deposited, the case shall not be brought on the file of suits; but in such case the plaintiff may present another plaint at any time within the period prescribed by this Act for the limitation of suits.

57. If in any suit against an under-tenant, [1] [raiya or Mundari khunt-kattidar] for the recovery of an arrear of rent, or against an agent for the recovery of any money, papers or accounts, the plaintiff desires a warrant of arrest to be issued against the defendant, such defendant being resident within the district in which the suit is instituted, he shall present with his statement of claim an application for the issue of such warrant.

Issue of warrant for arrest of defendant.

When such application is presented, the Deputy Commissioner shall examine the plaintiff or his agent, according to the law for the time being in force for the examination of witnesses, and inspect the documents adduced by him in support of his claim; and, if there be *prima facie* grounds for believing the claim to be well-founded, and that if a summons be issued the defendant will abscond instead of appearing to answer the claim, the Deputy Commissioner may issue a warrant for the arrest of the defendant.

The Deputy Commissioner shall fix a reasonable time for the return of the warrant, which shall be in the form contained in the Schedule E hereto annexed, or to the like effect; and the officer entrusted with the service of the warrant shall at the time of arresting the defendant deliver to him a notice addressed to the defendant, which shall be in the form in the Schedule F hereto annexed, or to the like effect, containing the particulars of the claim, and requiring the defendant, if he contest the claim, to bring with him any document upon which he may intend to rely in support of his defence.

But no such warrant shall be issued in a suit for arrears of rent due in

[1] The words "raiya or Mundari khunt-kattidar," in s. 57, were substituted for the words "or raiyat" by the Chota Nagpur Tenancy (Amendment) Act, 1908 (H. N. Act 5 of 1908), s. 26, (a), *post*, p. 423.

respect of [1] [a tenure or holding which] is liable to sale in execution of any decree which may be passed in the case.

Defendant,
when arrested,
to be brought
before De-
puty Commis-
sioner.

58. If the defendant is arrested under the warrant of arrest, he shall be brought with all convenient speed before the Deputy Commissioner; and the Deputy Commissioner shall commit him to custody, unless he deposits in Court such sum as may be specified in the notice.

Procedure
when defend-
ant is brought
before the
Deputy Com-
missioner un-
der warrant.

59. When the defendant is brought before the Deputy Commissioner under warrant, the Deputy Commissioner shall with all convenient speed proceed to try the case in the manner hereinafter provided.

If the suit cannot be at once adjudicated, the Deputy Commissioner may, if he think fit, require the defendant to give security for his appearance whenever the same may be required at any time whilst the suit is pending, or until execution of the final decree which may be passed thereon, and may commit the defendant to the civil jail, to be there detained until he shall furnish such security or deposit such sum as the Deputy Commissioner shall order.

The security-bond shall be in the form contained in Schedule G hereto annexed, or to the like effect.

Procedure if
defendant
cannot be
arrested.

60. If the defendant cannot be arrested under the warrant, the Deputy Commissioner, on the application of the plaintiff, shall either postpone the case, for such period as he may think proper, in order that the plaintiff may apply within the said period for another warrant to be issued for the arrest of the defendant, or shall forthwith issue a proclamation, to be affixed to his own office and to the residence of the defendant, appointing a day for the hearing of the case, which shall not be less than ten days from the date of the publication of the notice at the residence of the defendant.

If the defendant appears in pursuance of the proclamation he shall be dealt with as provided in the last preceding section.

Compensation
when arrest
of defendant
applied for
without rea-
sonable cause.

61. If it appears to the Deputy Commissioner that the arrest of the defendant was applied for without reasonable cause, the Deputy Commissioner may in his decree award to the defendant such sum, not exceeding one hundred rupees, as he may deem a reasonable compensation for any injury or loss which the defendant may have sustained by reason of such arrest, or of his detention in jail during the pendency of the suit.

Consequence
of neither

62. If on the day fixed by the summons or proclamation for the appearance of the defendant, or on any subsequent day to which the hearing of the case may

[1] These words in square brackets in s. 57 were substituted for the words "a dependent taluk or other transferable tenure which, as hereinafter provided" by the Chota Nagpur Tenancy (Amendment) Act, 1903 (Ben. Act 5 of 1903), s. 26 (b) *post*, p. 421.

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be postponed prior to the recording of an issue for trial as hereinafter provided, neither of the parties appear in person or by an agent, the case shall be struck off, with liberty to the plaintiff to bring a fresh suit, unless precluded by the provisions for the limitation of suits contained in this Act.

party appearing on day of trial.

63. If on any such day the defendant only appears, the Deputy Commissioner shall pass judgment against the plaintiff by default, unless the defendant admit the cause of action, in which case the Deputy Commissioner shall proceed to give judgment for the plaintiff upon such admission, without costs:

Procedure when defendant only appears or if he admit claim.

Provided that such judgment, if there be more than one defendant, shall be only against the defendant who makes the admission.

64. If on any such day the plaintiff only appears, the Deputy Commissioner, upon proof that the summons or proclamation has been duly served according to the provisions of this Act, shall proceed to examine the plaintiff or his agent, and, after considering the allegations of the plaintiff, and any documentary or oral evidence adduced by him, may either dismiss the case or postpone the hearing of it to a future day for the attendance of any witness the plaintiff may wish to call, or may pass judgment *ex-parte* against the defendant.

If plaintiff only appear, Deputy Commissioner may proceed *ex-parte*.

65. If the defendant appears on any subsequent day to which the hearing of the suit may be postponed under the last preceding section, the Deputy Commissioner may, upon such conditions, if any, as to costs or otherwise as he may think proper, allow the defendant to be heard in answer to the suit as if he had appeared on the day fixed for his attendance.

If defendant appear on day to which case is postponed, Deputy Commissioner may allow him to be heard.

66. No appeal shall lie from a judgment passed *ex-parte* against a defendant who has not appeared, or from a judgment against a plaintiff by default for non-appearance.

Revival, alteration or reversal of decrees passed *ex-parte* or by default.

But in all such cases, if the party against whom judgment has been given appears, either in person or by agent, if a plaintiff within [1] [thirty days] from the date of the Deputy Commissioner's order, and if a defendant within [1] [thirty days] after any process for enforcing the judgment has been executed, or at any earlier period, and show sufficient cause for his previous non-appearance, and satisfies the Deputy Commissioner that there has been a failure of justice, the Deputy Commissioner may, upon such terms and conditions as to costs or otherwise as he may think proper, revive the suit and alter or rescind the decree, according to the justice of the case.

[1] The words "thirty days," in s. 66, were substituted for the words "fifteen days" by the Chota Nagpur Tenancy (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 27, *post*, p. 424.

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THE CHOTA NAGPUR LANDLORD AND
(Secs. 67-72.)

[Ben. Act 1

But no decree shall be reversed or altered without previously summoning the opposite party to appear and be heard in support of it.

Order to set aside judgment final, but rejection of application to set aside appealable.

67. In all cases in which the Deputy Commissioner shall pass an order for setting aside a judgment, the order shall be final: but, in all appealable cases in which the Deputy Commissioner shall reject the application, an appeal shall lie from the order of rejection to the tribunal to which the final decision in the suit would be appealable: provided that the appeal be preferred within the time allowed for an appeal from such final decision.

On appearance parties to be examined by Deputy Commissioner and may cross-examine each other

68. When both parties appear in person on the day named in the summons, or upon any subsequent day to which the hearing of the case may be adjourned for sufficient reason to be recorded by the Deputy Commissioner the Deputy Commissioner shall proceed to examine them, and either party or his agent may cross-examine the other.

If either of the parties is not bound to attend personally, any agent by whom he shall appear or any person who shall accompany such agent, shall be examined and cross-examined in like manner as the party himself would have been if he had attended personally.

At the time of examination the defendant, if he think fit, may file a written statement of his defence.

Such statement shall be verified in the manner prescribed in section 50.

Conduct and record of examination.

69. The examination of the parties or their agents, or such other persons as aforesaid, shall be conducted according to the law for the time being in force for the examination of witnesses.

The substance of the examination shall be reduced to writing in the vernacular language of the Deputy Commissioner, and filed with the record:

Provided that all examinations of parties and witnesses may be recorded in English, if the Deputy Commissioner be sufficiently acquainted with that language.

Examination of witnesses.

70. If either of the parties brings forward a witness on the day aforesaid the Deputy Commissioner may take the evidence of such witness.

Production of documents by defendant.

71. If the defendant relies on any document in support of his defence, he shall deliver the same into Court at the first hearing of the suit; and, unless such document is so delivered in, or its non-production is sufficiently excused, or unless the Deputy Commissioner sees fit to extend the time for producing the same, it shall not afterwards be admitted.

Decree when to be made.

72. If, after the examination required by section 68, and also the examination of any witness who may attend to give evidence on behalf of either of the

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parties, and after a consideration of the documentary evidence adduced, a decree can be properly made without further evidence, the Deputy Commissioner shall make a decree accordingly.

73. If, on such examination as aforesaid, the agent of either party is unable to answer any material question relating to the case, which the Deputy Commissioner is of opinion that the party whom he represents ought to answer, and is likely to be able to answer if interrogated in person, the Deputy Commissioner may postpone the hearing of the case to a future day, and direct that the party whose agent may have been unable to answer as aforesaid shall attend in person on such day ;

Consequence of inability of agent to answer material question.

and, if the party so directed to attend fails to appear in person on the day appointed, the Deputy Commissioner may pass judgment as in case of default, or make such other order as he may deem proper under the circumstances of the case.

74. If, on such examination as aforesaid, it appears that the parties are at issue on any question upon which it is necessary to hear further evidence, the Deputy Commissioner shall declare and record such issue, and shall fix a convenient day for the examination of witnesses and the trial of the suit; and the trial shall take place on that day, unless there be sufficient reason for adjourning it, which reason shall be recorded by the Deputy Commissioner.

Power to postpone trial.

75. The parties shall bring forward their witnesses on the day of trial, and if either party requires assistance to procure the attendance of a witness on such day, either to give evidence or to produce a document, he shall apply to the Deputy Commissioner in sufficient time before the day fixed for the trial to enable the witness to be summoned to attend on that day; and the Deputy Commissioner shall issue a summons requiring such witness to attend.

Parties to produce witnesses on trial, or Deputy Commissioner may, on application, summon witness.

10 of 1877.

76. The provisions of the Code of Civil Procedure [1] relating to the attendance and examination of witnesses and the production of documents, and to the remuneration and punishment of witnesses, shall, so far as they are consistent with this Act, apply to all suits under this Act.

Code of Civil Procedure applied to attendance, etc., of witnesses.

77. If, on the day fixed for the trial of any issue, neither of the parties appear, the case shall be struck off under the conditions provided in section 62.

Consequence of parties not appearing on day fixed for trial of issue.

If, on any such day, one only of the parties appears, the issue may be tried and determined, in the absence of the other party, upon such proof as may be then before the Court.

[1] This reference to Act 10 of 1877 should now be read as applying to Act 14 of 1882—see s. 3 of the latter Act, printed in the General Acts, 1882-84, Ed. 1896, p. 262.

Institution or
defending of
suits by naibs,
gumashtas,
etc.

78. When suits under this Act are instituted or defended by naibs, gumashtas or other persons employed in the collection of rent or management of land, in the name and on the behalf of the landholders by whom they are so employed,

all the provisions of this Act, by which the personal appearance or attendance of parties to a suit is or may be required, shall be applicable to such naibs, gumashtas or other persons; and anything which by this Act is required or permitted to be done by a party in person may be done by any such person as aforesaid.

Processes served on any such person shall be as effectual for all purposes in relation to the suit as if the same had been served on the landholder in person; and all the provisions of this Act relative to the service of processes on a party to the suit shall be applicable to the service of processes on such person.

Exemption of
women from
personal at-
tendance.

79. A plaintiff or defendant shall not be required to attend in person if of the female sex and of a rank or class which, according to the custom and manners of the country, would render it improper for her to appear in public.

Employment
of authorized
agents or
mukhtars.

80. Any party to a suit may employ an authorized agent or mukhtar to conduct the case on his behalf; but the appointment of such agent or mukhtar shall not excuse the personal attendance of the plaintiff or defendant in cases where his personal attendance is required by the summons or any order of the Court.

Power to
grant time or
adjourn hear-
ing.

81. The Deputy Commissioner may in any case grant time to the plaintiff or defendant to proceed in the prosecution or defence respectively of a suit, and may also from time to time, in order to the production of further proof, or for other sufficient reason to be recorded by him, adjourn the hearing or further hearing of any case in such manner as to him may seem fit.

Local in-
quiries.

82. The Deputy Commissioner may, at any stage of a [1] [suit or other proceeding under this Act], cause a local inquiry and report respecting the matter in dispute to be made by any officer subordinate to him, or by any other officer of Government with the consent of the authority to whom such officer is subordinate, [2] [or by any other person whom the Deputy Commissioner may deem fit], or may himself proceed to the spot and make such local inquiry in person.

[1] The words "suit or other proceeding under this Act," in s. 82, were substituted for the word "suit" by the Chota Nagpur Tenancy (Amendment) Act, 1903 (Ben. Act 5 of 1903), s. 28 (1), *post*, p. 421.

[2] The words "or by any other person whom the Deputy Commissioner may deem fit," in s. 82, were inserted by the same Act, s. 28 (2), *post*, p. 424.

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The provisions of the law for the time being in force, relative to local inquiries by amins or commissioners under orders of the Civil Courts, shall apply to any local inquiry made by any officer [1] [or other person] under this section, and, so far as they are applicable, to inquiries made by the Deputy Commissioner in person.

In the latter case the Deputy Commissioner, after completing the inquiry, shall record on the proceedings such observations as appear to him appropriate; and the observations so recorded shall be received as evidence in the suit [2] [or other proceeding as aforesaid].

83. The defendant in any suit under this Act may, if he has duly tendered the same to the plaintiff before the institution of the suit, pay into Court such sum of money as he may consider due to the plaintiff, without paying in any costs incurred by the plaintiff up to the time of such payment, and such sum shall be immediately paid out of Court to the plaintiff.

Payment into Court by defendant after tender to plaintiff.

If, after such payment, the plaintiff elects to proceed in the suit, and ultimately recovers no further sum than shall have been paid into Court, the plaintiff shall be charged with the whole costs of the suit incurred by the defendant; but, if the plaintiff ultimately recovers a further sum than shall have been paid into Court, the defendant shall be charged with the whole costs of the suit.

Costs if plaintiff goes on.

84. The defendant in any suit under this Act may, without having made any tender before action brought, pay into Court such sum of money as he may consider due to the plaintiff together with the costs (to be fixed by the Court, if necessary, as upon a suit originally instituted for the amount so paid into Court) incurred by the plaintiff up to the time of such payment, and such sum shall immediately be paid out of Court to the plaintiff.

Payment into Court by defendant without prior tender to plaintiff.

If, after such payment, the plaintiff elects to proceed in the suit, and ultimately recovers no further sum than shall have been paid into Court, he shall be charged with all costs incurred by the defendant subsequently to such payment, but, if the plaintiff ultimately recovers a further sum than shall have been paid into Court, the defendant shall be charged with costs as upon a suit originally instituted for the whole amount for which the plaintiff ultimately obtains a decree, but shall have credit thereout for the amount of costs paid into Court by him in the first instance.

Costs if plaintiff goes on.

[1] The words "or other person," in s. 82, were inserted by the Chota Nagpur Tenancy (Amendment) Act, 1903 (Ben. Act 5 of 1903), s. 28 (3), *post*, p. 424.

[2] The words "or other proceeding as aforesaid," in s. 82, were added by the same Act, s. 28 (4), *post*, p. 424.

(Secs. 85-88.)

No interest on deposits.

85. No interest shall be allowed to the plaintiff on any sum paid by the defendant into Court from the date of such payment, whether such sum be in full of his claim or fall short thereof.

Fixing of time for which patta is to be granted.

86. If, on the trial of a suit for the delivery of a patta instituted by a raiyat having a right of occupancy, the parties do not agree as to the term for which the patta is to be granted, the Deputy Commissioner shall fix such term as under the circumstances of the case he may think just and proper :

Provided that the term shall not in any case be longer than twenty years, and, in estates not permanently settled, shall not extend beyond the period for which the proprietor of the estate has engaged with Government :

Provided also that, if the defendant be a farmer or other person having only a temporary interest in the land, the term of the patta shall not extend beyond the period of the continuance of such interest.

For cultivators not having a right of occupancy, the term of patta shall be exclusively in the discretion of the person entitled to the rent of the land.

Third party claiming rent in suit, to be made party to suit.

87. When, in any suit between a landholder and a raiyat, [1] [under-tenant or Mundari khunt-kattidar] under this Act, the right to receive the rent of the land or tenure cultivated or held by the raiyat, [1] [under-tenant or Mundari khunt-kattidar] is disputed, and such right is claimed by or on behalf of a third person, on the ground that such third person, or a person through whom he claims, has actually and in good faith received and enjoyed such rent before and up to the time of the commencement of the suit,

such third person shall be made a party to the suit, and the question of the actual receipt and enjoyment of the rent by such third person shall be inquired into, and the suit shall be decided according to the result of such inquiry:

Provided that the decision of the Deputy Commissioner shall not affect the right of either party, who may have a legal title to the rent of such land or tenure, to establish his title by suit in a Civil Court, if instituted within one year from the date of the decision.

Suits for ejectment or

88. Any person desiring to eject a [2] [non-occupancy] raiyat or to cancel a lease on account of non-payment of arrears of rent may sue for such

[1] The words "under-tenant or Mundari khunt-kattidar," in s. 87, were substituted for the word "or under-tenant" by the Chota Nagpur Tenancy (Amendment) Act, 1903 (Ben. Act 5 of 1903), s. 29, *post*, p. 424

[2] The words "non-occupancy," in s. 88, were inserted by the same Act, s. 30 (1), *post*, p. 424.

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ejectment or cancelment and for the recovery of the arrear in the same action, ^{cancelment of lease.} or may adduce any unexecuted decree for arrears of rent as evidence of the existence of such arrears in a suit for such ejectment or cancelment.

In all cases of suits for the ejectment of a [1] [non-occupancy] raiyat or the cancelment of a lease, the decree shall specify the amount of the arrear; and if such amount, together with interest and costs of suit, be paid into Court within [2] [thirty] days from the date of the [3] [final] decree, execution shall be stayed.

[4] [The Court may, for special reasons to be recorded in writing, extend the period of thirty days mentioned in this section.]

89. The Deputy Commissioner shall pronounce judgment in open Court. ^{Judgment.}

The judgment shall be written in the vernacular language of the Deputy Commissioner, and shall contain the reasons for the same, and shall be dated and signed by the Deputy Commissioner at the time when it is pronounced:

Provided that any judgment may be written in English, if the Deputy Commissioner be sufficiently acquainted with the English language.

90. In any suit for rent under this Act, if it appears to the Court that the defendant has, without reasonable or probable cause, neglected or refused to pay the amount due from him, ^{Power to award damages to plaintiff in rent suit.}

and that he has not, before the institution of the suit, tendered such amount to the plaintiff or his duly-authorized agent, or, in case of refusal of the plaintiff or such agent to receive the amount tendered, has not deposited such amount with the Deputy Commissioner before the institution of the suit in manner hereinbefore mentioned,

the Court may award to the plaintiff, in addition to the amount decreed for rent and costs, such damages not exceeding twenty-five *per centum* on the amount of rent decreed, as the Court may think fit;

and such damages, if awarded, as well as the amount of rent and costs decreed in the suit, shall carry interest, from the date of decree until payment thereof, at such rate *per centum* as the Deputy Commissioner deems reasonable.

91. In any suit for rent under this Act if it appears to the Court that the ^{Power to award com-}

[1] The words "non-occupancy", in s. 88, were inserted by the Chota Nagpur Tenancy (Amendment) Act. 1903 (Ben. Act 5 of 1903), s. 30 (1), *post*, p. 424.

[2] The word "thirty", in s. 88, was substituted for the word "fifteen" by the same Act, s. 30 (2), *post*, p. 424.

[3] The word "final", in s. 88, was inserted by the same Act, s. 30 (3), *post*, p. 424.

[4] This clause was added to s. 89 by the same Act, s. 30 (4), *post*, p. 424.

possession to
defendant in
rent suit.

plaintiff has instituted the suit against the defendant without reasonable or probable cause,

or that the defendant, before the institution of the suit, duly deposited with the Deputy Commissioner in the manner hereinafter mentioned the full amount which the Court shall find to have been due to the plaintiff at the date of such deposit;

the Court may award to the defendant by way of compensation such sum not exceeding twenty-five *per centum* on the whole amount claimed by the plaintiff, as the Court may think fit;

and such sum, with interest until payment thereof at such rate *per centum* as the Deputy Commissioner deems reasonable, shall be recoverable from the plaintiff in like manner as sums decreed to be paid by defendants under this Act.

Power of
Deputy Com-
missioner to
grant patta in
default.

92. When a decree is given for the delivery of a patta, if the person required by the decree to grant such patta refuses or delays to grant the same, the Deputy Commissioner may grant a patta, in conformity with the terms of the decree, under his own hand and seal; and such patta shall be of the same force and effect as if granted by the person aforesaid.

Consequence
of refusal to
execute kabu-
liyat.

93. When a decree is given for the delivery of a kabuliyat, if the person required by the decree to execute such kabuliyat refuses to execute the same, the decree shall be evidence of the amount of rent claimable from such person, and a copy of the decree under the hand and seal of the Deputy Commissioner shall be of the same force and effect as a kabuliyat executed by the said person.

Execution of
decree for
ejectment or
re-instatement
of raiyat.

94. If the decree is for the ejectment of any raiyat from land occupied by him, or for the re-instatement of any raiyat in the occupancy of land from which he has been ejected, the decree shall be executed by giving the possession or occupancy of the land to the person entitled by the decree to such possession or occupancy.

If any opposition is made to the execution of the order for giving such possession or occupancy by the party against whom the order is made, the Deputy Commissioner, in the exercise of his powers as a Magistrate, shall give effect to the same.

Execution of
decree for
cancelment of
lease, or for
ejectment or
re-instatement
of farmer or
tenant.

95. If the decree is for the cancelment of any lease, or the ejectment of any farmer or other person (not being an actual cultivator), or for the re-instatement of any farmer or other such person in the possession of a farm or tenure from which he has been ejected, the decree shall be executed by proclaiming the substance of the decree to the cultivators or other occupants by

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beat of drum, or in such other manner as may be customary, and affixing the same in some conspicuous place within, or adjacent to, the farm or tenure.

96. If the decree is for arrears of rent, or for money, papers or accounts, and the defendant has been committed to jail, or appears pursuant to the conditions of any security-bond given under section 59, the Deputy Commissioner may order that he be detained in, or committed to, the civil jail, unless he immediately pay into Court the amount of the decree, with costs, or otherwise comply with the terms of the decree.

Imprisonment
of defendant
after decree.

97. If the judgment-debtor has given security for his appearance, and is not present when judgment is pronounced, and the surety fails to deliver him into custody when required so to do, process of execution may be taken out against the surety in the same manner as if a decree for the amount due from the debtor had been passed against the surety.

Execution
against
judgment-
debtor's
surety.

If the decree is for the delivery of papers or accounts, and the defendant is not present when judgment is pronounced, and the surety fails to deliver him into custody when required so to do, execution may be taken out against the surety for the sum due under the bond in the same manner as if a decree for that sum had been passed against the surety.

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98. The provisions relating to attachment before judgment, contained in the Code of Civil Procedure, [1] are hereby extended to all suits under this Act.

Attachment
before judg-
ment.

[2] 99. Process of execution may be issued against either the person or the property of a judgment-debtor, but process shall not be issued simultaneously against both person and property.

Issue of pro-
cess of execu-
tion.

Process of execution against the person or moveable property of a debtor shall be in the form contained in Schedule H of I hereto annexed, or the like effect.

[2] 100. Any moveable property required to be seized under an execution shall, if practicable, be described in a list to be furnished by the judgment-creditor; but, if the creditor is unable to furnish such list, he may apply for a general attachment of the debtor's effects to the amount of the judgment and costs.

Description
of moveable
property to be
seized.

In either case, the property to be seized shall be pointed out to the officer entrusted with the execution of the process by the creditor or his agent.

[1] This reference to Act 10 of 1877 should now be read as applying to Act 14 of 1882—see s. 8. of the latter Act; in the General Acts, 1882-84, Ed. 1893, p. 262.

[2] Ss. 99 to 123 are applicable also to proceedings under s. 155 (4) for the recovery of rent under the certificate procedure in respect of Mundari khunt-kadidari tenancies—see s. 155 (5), post, p. 403.

Duration of
warrant of
execution.

[1] 101. Every warrant of execution shall bear date on the day on which it is signed by the Deputy Commissioner, and shall continue in force for such period as the Deputy Commissioner may direct, not being more than sixty days from such date.

Second and
successive
warrants of
execution.

[1] 102. Second and successive warrants of execution may be issued by order of the Deputy Commissioner on the application of the judgment-creditor after the expiration of the period fixed for the continuance in force of a previous warrant.

After one year
execution not
to issue
without
notice.

[1] 103. Process of execution shall not be issued upon any^[2] [decree or order] without previous notice to the party against whom execution is applied for, if, when application for the issue of the process is made, a period of more than one year shall have elapsed from the date of the judgment, or from the date of the last previous application for execution.

Bar to execu-
tion against
representative
without no-
tice.

[1] 104. Execution on a^[3] [decree or order] shall not issue against the heir or other representative of a deceased party without notice to such heir or other representative to appear and be heard.

Application
for execution
to be made
within three
years.

[1, 4] 105. No process of execution of any description whatsoever shall be issued on any decree or order passed under this Act unless an application be made within three years from—

(a) the date of the decree or order, or

(b) where there has been an appeal, the date of the final decree or order of the Appellate Court, or

(c) where there has been a review of judgment, the date of the decision passed on the review.

Warrant of
execution
against per-
son.

[1] 106. If a warrant is issued for taking in execution the body of any person, the officer charged with the execution of the warrant shall bring him, with all convenient speed, before the Deputy Commissioner.

If such person does not then deposit in Court the full amount specified in the warrant, or make such arrangement for the payment of the same as shall be satisfactory to the judgment-creditor, or satisfy the Deputy Commissioner that he has no present means of paying the debt, the Deputy Commissioner

[1] As to the extension of ss. 101 to 106, see foot-note [2] on p. 387, *ante*.

[2] These words in square brackets in s. 103 were substituted for the word "judgment" by the Chota Nagpur Tenancy (Amendment) Act, 1903 (Ben. Act 5 of 1903), s. 31, *post*, p. 424.

[3] These words in square brackets in s. 104 were substituted for the word "judgment" by the same Act, s. 32, *post*, p. 424.

[4] This section was substituted for the original s. 105 by the same Act, s. 33, *post*, p. 424. The original section ran thus:—

"No process of execution of any description whatsoever shall be issued on a judgment under this Act unless an application be made within three years from the date of such judgment."

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shall send him to the civil jail, there to remain for such time as shall be directed, by a warrant addressed to the keeper of the jail, unless he shall in the meantime pay the full amount for the payment of which he is liable under the decree :

Provided that no person shall be imprisoned in execution of a decree under this Act for a longer period than six months,

or for a longer period than six weeks, if the decree is for the payment of a sum of money not exceeding fifty rupees.

If the decree against any person arrested under a warrant is for the delivery of papers or accounts, and the papers or accounts are not delivered by him when he is brought before the Deputy Commissioner, such person may be committed to the civil jail, there to remain for such time, not exceeding six months, as the Deputy Commissioner shall direct, unless he shall in the meantime deliver the papers or accounts according to the terms of the decree.

[1] 107. Any person once discharged from jail shall not be imprisoned a second time under the same judgment.

No second imprisonment under same judgment.

If the amount due under the decree does not exceed fifty rupees, the Deputy Commissioner may declare such discharged person absolved from liability under that decree.

In other cases the discharge shall not extinguish the liability of the discharged person under the decree, or exempt property belonging to such person from attachment in execution of the same.

[1] 108. Any person applying for a warrant of arrest under section 57, or suing out process of execution against the body of any person, shall deposit in Court, at the time of issue of the warrant, diet-money for thirty days at such rate as the Deputy Commissioner may direct.

Deposit of diet-money at time of issue of warrant.

[1] 109. Payment of diet-money at the same rate shall be made previously to the commencement of each succeeding month of the imprisonment, on failure of which the party confined shall be discharged.

Payment of diet-money in advance during imprisonment. Charging of diet-money as costs in suit, or return of same.

[1] 110. All diet-money spent in providing subsistence for any prisoner shall be added to the costs in the suit; and any diet-money not so spent shall be returned to the person who deposited the same.

Notification of intended sale of moveable property.

[1] 111. In executing a writ of execution against the moveable property of a debtor liable under this Act, the officer charged with the execution of the writ shall prepare a list of the property pointed out by the judgment-

[1] As to the extension of ss. 107 to 111, see foot-note [2] on p. 387, ante.

creditor, and shall publish a proclamation specifying the day upon which the sale is intended to be held, together with a copy of the said list, at the intended place of sale and at the residence of the debtor.

A copy of the said proclamation and list shall be transmitted to the Deputy Commissioner and shall be affixed in his office.

Custody of
such property.

Until the day of sale, the said property shall remain in the custody of the officer attaching the same.

Place and
manner of
sale.

[1] 112. The sale shall be held at the place where the property is deposited, or at the nearest ganj, bazar, hat, or other place of public resort, if the officer holding the sale is of opinion that it is likely to sell there to better advantage.

The property shall be sold by public auction in one or more lots as the officer holding the sale may think advisable; and if the judgment-debt, with the cost of the execution and sale, is satisfied by the sale of a portion of the property, the execution shall be immediately withdrawn with respect to the remainder.

Postpone-
ment of sale
if fair price
be not offered.

[1] 113. If, on the property being put up for sale, a fair price in the estimation of the officer holding the sale, is not offered for it, and the owner of the property, or some person authorized to act on his behalf, applies to have the sale postponed until the next day, or the next market day if a market be held at the place of sale, the sale shall be postponed until such day, and shall be then completed at whatever price may be offered for the property.

Payment of
purchase-
money.

[1] 114. The price of every lot shall be paid for in ready money at the time of sale, or as soon after as the officer holding the sale shall think necessary; and, in default of such payment, the property shall be put up again and sold.

When the purchase-money has been paid in full, the officer holding the sale shall give the purchaser a certificate describing the property purchased by him and the price paid.

Application
of proceeds of
sale.

[1] 115. From the proceeds of the sale of the property, the officer holding the sale shall make a deduction, at the rate of one anna in the rupee, on account of the costs of the sale, and shall transmit the amount to the Deputy Commissioner in order that it may be credited to Government.

The said officer shall then pay to the judgment-creditor the expenses incurred by the judgment-creditor on account of the preparation of the list,

[1] As to the extension of ss. 112 to 115, see foot-note [2] on p. 387, ante.

of 1879.]

TENANT PROCEDURE ACT.

(Secs. 116-121.)

and of the publication of the proclamation of sale prescribed in section 111, to such amount as, after examination of the statement of expenses furnished by the judgment-creditor, he thinks proper to allow.

The remainder shall be applied to the discharge of the debt for which the sale was made, with interest thereon up to the day of sale, and if there be any surplus, it shall be delivered to the person whose property has been sold.

[1] 116. Officers holding sales of property under this Act, and all persons employed by, or subordinate to, such officers, are prohibited from purchasing, either directly or indirectly, any property sold by such officers. Prohibition of purchase by officers.

[1] 117. No sale of any moveable property taken in execution shall be made until after the end of ten days next following the day on which such property may have been so taken. Interval between seizure and sale.

[1] 118. If, before the day fixed for the sale, a third party appears before the Deputy Commissioner and claims a right or interest in any of the moveable property taken in execution, the Deputy Commissioner shall examine such party or his agent according to the law for the time being in force relating to the examination of witnesses, and, if he see sufficient reason for so doing, may stay the sale of such property. Power to stay sale if third party claims interest in property seized.

[1] 119. The Deputy Commissioner shall adjudicate upon such claim, and make such order between the claimant and the plaintiff and defendant in the original suit as shall to him seem fit. Adjudication of such claims.

In trying such claim the Deputy Commissioner shall be guided by the provisions of this Act, so far as they may be applicable.

[1] 120. If the claimant fails to establish his right to the property taken in execution, the Deputy Commissioner, at the time of disposing of the case, may award to the judgment-creditor against such claimant, as part of the costs, such sum as he may consider sufficient to cover any loss of interest or damage which the judgment-creditor may have sustained by reason of the postponement of the sale of the property. Power to award compensation to judgment-creditor against claimant.

[1] 121. No appeal shall lie from any order passed by the Deputy Commissioner under the last two preceding sections. No appeal from order under section 119 or 120.

But the party against whom the same may be given shall be at liberty to bring a suit in the Civil Court to establish his right, at any time within one year from the date of the order :

Provided that, if the order be for the sale of the property, the suit shall not be for the recovery of the property, but for damages against the judgment-creditor by whom the property was brought to sale.

[1] As to the extension of ss. 116 to 121, see foot-note [2] on p. 387, ante.

THE CHOTA NAGPUR LANDLORD AND [Ben. Act 1
(Secs. 122-125.)

Sale not
vitiating by ir-
regularity in
publishing or
conducting
same.

[1] 122. No irregularity in publishing or conducting a sale of moveable property under an execution shall vitiate such sale; but nothing contained in this section shall be held to deprive any person who may sustain damage by reason of such irregularity from recovering such damage by action in the Civil Court:

Provided such action be brought within one year from the date of sale.

Sale of
tenures or
holdings in
execution of
decrees for
arrears of rent.

123. [2] [If the decree is for an arrear of rent in respect of a tenure or holding, the decree-holder may make application for the sale of such tenure or holding, and the tenure or holding may thereupon be brought to sale, in execution of the decree, according to the provisions for the sale of under-tenures contained in the Bengal Rent Recovery (Under-tenures) Act, 1865[3]; and all the provisions of that Act shall, as far as may be, apply:

Ben. Act
8 of 1865.

Provided that the Commissioner may, by order, in any case in which he may consider it desirable so to do,—

(a) prohibit the sale of any tenure or portion thereof, or

(b) stay any such sale for any period specified in the order:

Provided also that any sale of a resumable tenure under this section shall not affect the right of the grantor or his successor in title to resume such tenure, but shall be made subject to such right.]

But no such application shall be received, when a warrant of execution has been previously issued against the person or moveable property of the judgment-debtor, so long as such warrant remains in force.

If, after sale of [4] [the tenure or holding], any portion of the amount decreed remains due, process may be applied for against any other property, moveable or immovable, belonging to the debtor; and any such immovable property may be brought to sale in the manner provided in section 129.

124. [Bar to sale of under-tenures held conditionally on survival of heirs male.] Rep. by the Chota Nagpur Tenancy (Amendment) Act, 1903 (Ben. Act 5 of 1903), s. 35.

Power to stay
sale if third
party claims

125. If, before the day fixed for the sale of [5] [any tenure or holding] a third party appears before the Deputy Commissioner and alleges that such

[1] As to the extension of s. 122, see foot-note [2] on p. 387, ante.

[2] This portion of s. 123 printed in square brackets was substituted for the original sentence by the Chota Nagpur Tenancy (Amendment) Act, 1903 (Ben. Act 5 of 1903), s. 34 (1), post, p. 424.

[3] Printed ante, p. 231.

[4] The words "the tenure or holding", in s. 123, were substituted for the words "an under-tenure" by the Chota Nagpur Tenancy (Amendment) Act, 1903 (Ben. Act 5 of 1903), s. 34 (2), post, p. 425.

[5] The words "any tenure or holding", in s. 125, were substituted for the words and figures "any such under-tenure as is mentioned in section 123, or of the right and title of any person in an under-tenure of the nature described in section 124" by the same Act, s. 36 (1), post, p. 425.

of 1879.]

TENANT PROCEDURE ACT.

(Secs. 126, 127.)

third party, and not the person against whom the decree has been obtained, is the proprietor of [1] [such tenure or holding] and was in lawful possession of the same at the time when such decree was obtained,

to be in lawful possession of tenure or holding.

the Deputy Commissioner shall examine such party in the manner provided in section 118; and if he sees sufficient reason for so doing, and such party deposits in Court the amount of the decree, or gives sufficient security for the same, the Deputy Commissioner shall stay the sale and proceed to inquire into and adjudicate upon, the claim

[2] [Provided that no such inquiry shall be made where the Court considers that the claim was designedly or unnecessarily delayed :]

Provided [3] [also] that no transfer of [4] [a tenure] which, by the provisions of this Act or any other law for the time being in force, is required to be registered in the sarishta of the zamindar or superior tenant shall be recognized unless it has been so registered, or unless sufficient cause for non-registration is shown to the satisfaction of the Deputy Commissioner.

126. In trying such claim the Deputy Commissioner shall be guided by the provisions of this Act, so far as the same may be applicable ; and the judgment passed by the Deputy Commissioner on such claim shall not be subject to appeal, but the party against whom it is given may bring a suit in the Civil Court to establish his right, at any time within one year from the date of the judgment.

Adjudication of such claims.

127. If a decree is given in favour of a sharer in a joint undivided estate, dependent taluk, or other similar tenure, for money due to him on account of his share of the rent of an under-tenure situate in such undivided estate, taluk or tenure, application for the sale of such under-tenure shall not be received unless execution shall have been first taken out against any moveable property which the judgment-debtor may possess within the district in which the suit was instituted, and the sale of such property, if any, shall have proved insufficient to satisfy the judgment.

Execution of decrees for rent given in favour of sharers in undivided estates or tenures.

In such case the under-tenure * * * [5] may, with the sanction of the Commissioner, but not otherwise, be brought to sale in

[1] The words "such tenure or holding", in s. 125, were substituted for the words "such under-tenure" by the Chota Nagpur Tenancy (Amendment) Act, 1903 (Hou. Act 5 of 1903), s. 36 (2), *post*, p. 425.

[2] This proviso was inserted by s. 35 (3) of the same Act.

[3] This word "also", in s. 125, was inserted by s. 36 (4) of the same Act.

[4] The words "a tenure", in s. 125, were substituted for the words "an under-tenure," by s. 36 (5) of the same Act.

[5] The words and figures "if of the nature described in section 123 and not of the nature described in section 124," were repealed by s. 37 of the same Act, and also omitted.

LANDLORD AND TENANT.
THE CHOTA NAGPUR LANDLORD AND
(Secs. 124-130A.)

[Ben. Act 1

execution of the decree in the same manner as any other immoveable property may be sold in execution of a decree for money under the provisions of the next two succeeding sections.

Execution
against im-
moveable pro-
perty in cer-
tain cases if
judgment not
satisfied.

128. In the execution of any decree for the payment of money under this Act, not being money due as arrears of rent, * * * [1] if satisfaction of the judgment cannot be obtained by execution against the person or moveable property of the debtor within the district in which the suit was instituted, the judgment-creditor may apply for execution against any immoveable property belonging to such debtor; and such immoveable property may, with the sanction of the Commissioner, but not otherwise, be brought to sale in the manner described in the next succeeding section.

Execution
against build-
ings, under-
tenures and
estates.

129. If the immoveable property against which execution is applied for is a house or other building, process shall be issued in the same manner as for the attachment and sale of moveable property; and the provisions of sections 111 to 117 (both inclusive) shall, so far as may be practicable, be applicable to the execution of such process.

If the property is a saleable under-tenure, it shall be sold under the provisions of the law for the time being in force in the Lower Provinces of Bengal applicable to the sale of such under-tenures for demands other than those of arrears of rent due in respect thereof.

If the property is an estate, or a share of an estate, it shall be sold under the provisions of the law for the time being in force in the Lower Provinces of Bengal applicable to the sale of estates for the recovery of demands recoverable by the same process as arrears of land-revenue.

Procedure
where objec-
tion is offered
before sale of
immoveable
property.

130. If, before the day fixed for the sale of any immoveable property as aforesaid, objection is offered to the sale on the ground of such property not belonging to the judgment-debtor, the Deputy Commissioner shall examine the party making the objection, in the manner prescribed in section 118, and, if satisfied that there is sufficient ground for so doing, shall stay the sale and proceed to inquire into, and adjudicate upon, the objection, in the same manner, and subject to the same right of suit by the party against whom judgment may be given, as is provided in section 126.

Application
to set aside
sale of tenure.

[2] 130A. (1) When a tenure or holding has been sold for an arrear of rent due thereon, or when any other immoveable property has been sold

[1] The words "of a saleable under-tenure, or of a tenure the right and title in which is saleable", were repealed by the Chota Nagpur Tenancy (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 37, *post*, p. 425, and are omitted.

[2] S. 130A was inserted by the same Act, s. 38, *post*, p. 425.

TENANT PROCEDURE ACT.

(Secs. 131-134.)

under section 129, any person who owns the tenure or holding or the said holding or other immoveable property, or who has an interest therein under a title lawfully acquired before the sale, may, at any time within a period of thirty days from the date of the sale, apply to have the sale set aside on his depositing in Court,—

(a) for payment to the purchaser, a sum equal to five *per centum* of the purchase money, and

(b) for payment to the decree-holder, the amount specified in the proclamation of sale as that for the recovery of which the sale was ordered, less any amount which may, since the date of such proclamation and sale, have been received by the decree-holder.

14 of 1892.

(2) If such deposits are made within the said period, the Court shall pass an order setting aside the sale, and the provisions of section 315 [1] of the Code of Civil Procedure shall apply in the case of a sale so set aside.

131. Every process issued by a Deputy Commissioner under this Act shall be under the seal and the signature of the Deputy Commissioner, and shall be served or executed by the nazir, or by such other officer as the Deputy Commissioner may direct, at the cost of the party at whose instance it issued. Service of Process.

132. The Deputy Commissioner may hold a Court for hearing and determining suits under this Act in any place within the limits of his district or local jurisdiction : Place for holding Court.

Provided that every hearing and decision shall be in open Court, and that the parties to the suit, or their authorised agents, shall have had due notice to attend at such place.

133. All the powers conferred on the Deputy Commissioner by this Act may be exercised by any Deputy Collector in cases referred to him by a Deputy Commissioner [2] [by general or special order], and in all cases, without such reference, by any Deputy Collector placed in charge of any sub-division of a district or specially authorised by the Local Government to receive such cases ; Powers of Deputy Collectors.

and all applications and reports allowed or required by this Act to be made to the Deputy Commissioner may be made to any Deputy Collector having such local jurisdiction or specially authorised as aforesaid.

134. In the performance of their duties [3] [and the exercise of their powers] under this Act, the Deputy Commissioners and Deputy Collectors Control over Deputy

[1] Printed in the General Acts, 1882-84, Ed. 1898, p. 354.

[2] These words in square brackets in s. 133 were inserted by the Chota Nagpur Tenancy (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 39, *post*, p. 425.

[3] These words in square brackets in s. 134 were inserted by the same Act, s. 40, *post*, p. 425.

Commissioners
and Deputy
Collectors.

shall be subject to the general direction and control of the Commissioner and the Board of Revenue ; and the Deputy Collectors shall be subject to the direction and control of the Deputy Commissioner to whom they are subordinate.

Appeal from
orders of
Deputy
Commissioners
and Deputy
Collectors.

135. All orders passed by a Deputy Commissioner under this Act, not being judgments in suits or orders passed in the course of suits and relating to the trial thereof, or orders passed after decree and relating to the execution thereof, [1] [and not being orders passed under section 119, section 120 or section 130], shall be appealable to the Commissioner, and all such orders passed by a Deputy Collector shall be appealable to the Deputy Commissioner ;

but no judgment of a Deputy Commissioner or Deputy Collector in any suit, and no order of a Deputy Commissioner or Deputy Collector passed in any suit and relating to the trial thereof, or after decree and relating to the execution thereof, shall be open to revision or appeal otherwise than as expressly provided in this Act.

[2] [Orders passed after decree and relating to the execution thereof shall be appealable to the Court to which an appeal from the decree itself would lie.]

Time for
presenting
appeals from
orders.

136. Every appeal against the order of a Deputy Commissioner shall be presented to the Commissioner within thirty days, and every appeal against the order of a Deputy Collector shall be presented to the Deputy Commissioner within [3] [thirty] days, from the date of the order.

Revision by
Board of
Revenue or
Commissioner.

Orders passed in appeal by a Commissioner or a Deputy Commissioner shall not be open to any further appeal but the Board of Revenue or the Commissioner may call for any case and pass such orders thereon as they may think proper.

Bar to appeals
in certain
cases under
section 37.

137. In suits under clauses (2), (4) and (7) of section 37, tried and decided by a Deputy Commissioner, if the amount sued for, or the value of the property claimed, does not exceed one hundred rupees, the judgment of the Deputy Commissioner shall be final, and not open to revision or appeal except as hereinafter provided, unless in any such suit a question relating to a title to land, or to some interest in land, is between parties having conflicting

[1] These words and figures in square brackets in s. 135 were inserted by the Chota Nagpur Tenancy (Amendment) Act, 1903 (Ben. Act 5 of 1903), s. 41 (1), *post*, p. 425.

[2] This clause was added by the same Act, s. 41 (2), *post*, p. 425.

[3] This word "thirty", in s. 136, was substituted for the word "fifteen" by the same Act, s. 42, *post*, p. 426.

of 1879.]

TENANT PROCEDURE ACT.

(Secs. 139-144.)

claims thereto, has been determined by the judgment, in which case the judgment shall be open to appeal in the manner provided in section 144.

138. [Power to grant re-hearing in cases in which an appeal is barred by section 137.] Rep. by the Chota Nagpur Tenancy (Amendment) Act, 1903 (Ben. Act 5 of 1903), s. 43.

139. When any such suit as aforesaid in which, if tried and decided by a Deputy Commissioner, the judgment of the Deputy Commissioner would be final, is tried and decided by a Deputy Collector, an appeal from the judgment of the Deputy Collector shall lie to the Deputy Commissioner.

Appeal from decision of Deputy Collector.

140. The petition of appeal shall be presented to the Deputy Commissioner within [1] [thirty] days from the date of decree :

Appeal to Deputy Commissioner when to be presented.

Provided that such time as may be requisite for procuring a copy of the decree appealed against shall not be reckoned as part of the [1] [thirty] days.

141. The Deputy Commissioner shall fix a day for hearing the appeal, and shall cause notice of the same to be served on the respondent.

Appeal when to be heard.

If, on the day fixed for hearing the appeal or any other day to which the hearing may be adjourned, the appellant does not appear in person or by an agent, the appeal shall be dismissed for default.

If the appellant appears and the respondent does not appear in person or by an agent, the appeal shall be heard *ex-parte*.

142. If an appeal is dismissed for default of prosecution, the appellant may, within fifteen days from the date of the dismissal, apply to the Deputy Commissioner for the re-admission of the appeal ; and, if it shall be proved to the satisfaction of the Deputy Commissioner that the appellant was prevented by any sufficient cause from appearing when the appeal was called on for hearing, the Deputy Commissioner may re-admit the appeal.

Re-admission of appeal.

143. After hearing the appeal, the Deputy Commissioner shall give judgment in the manner hereinbefore prescribed for giving judgment in original suits ; and the judgment of the Deputy Commissioner shall be final.

Judgment in appeal.

144. In all suits other than those in which, when tried and decided by a Deputy Commissioner, the judgment of the Deputy Commissioner is declared to be final, or when tried and decided by a Deputy Collector an appeal is allowed to the Deputy Commissioner,

In what suits appeal to lie to Judicial Commissioner or High Court.

an appeal from the judgment of the Deputy Commissioner or Deputy Collector shall lie to the Judicial Commissioner of the Division, unless the

[1] The word "thirty," in s. 140, was substituted for the word "fifteen" by the Chota Nagpur Tenancy (Amendment) Act, 1903 (Ben. Act 5 of 1903), s. 42, *post*, p. 426.

THE CHOTA NAGPUR LANDLORD AND [Ben. Act 1
(Secs. 144A-146.)

amount or value in dispute exceed five thousand rupees, in which case the appeal shall lie to the High Court.

[1] [A second appeal shall lie to the High Court, under Chapter XLII of the Code of Civil Procedure, from any appellate decree passed by the Judicial Commissioner under this Act.] 14 of 1882.

Transfer of appeals from Deputy Commissioner to Judicial Commissioner.

[2] 144A. Where, in analogous cases, some appeals have been presented to the Deputy Commissioner and others to the Judicial Commissioner, the Judicial Commissioner may, on the application of any of the parties, transfer to his own Court the appeals pending in the Court of the Deputy Commissioner.

Appeal to Judicial Commissioner or High Court when to be presented.

145. Appeals to the Judicial Commissioner or to the High Court under this Act shall be presented within the time prescribed for the presentation of appeals to a District Judge or to the High Court under the Code of Civil Procedure [3] by the law for the time being in force for the limitation of appeals. 10 of 1877.

Application of certain provisions of the Code of Civil Procedure.

[4] 145A. (1) The provisions of section 561 of the Code of Civil Procedure [5] shall, so far as applicable, apply to all appeals under this Act. 14 of 1882.

(2) The provisions of the Code of Civil Procedure [5] relating to the amendment of plaints, the amendment of decrees, the substitution and addition of parties, and review of judgment shall, so far as they are not inconsistent with this Act, apply to all suits, appeals and proceedings under this Act. 14 of 1882.

Suits in what office to be preferred.

146. Suits under this Act shall be preferred in the revenue office of the district;

or, when a sub-division of a district has been placed under the jurisdiction of a Deputy Collector, in the revenue office of the sub-division in which the cause of action shall have arisen;

or, when the cause of action has arisen within the limits of the local jurisdiction of any Deputy Collector not in charge of a sub-division, but who has been specially authorised by the Local Government to receive such suits, then in the office of such last-mentioned Deputy Collector:

Provided that the Deputy Commissioner may withdraw any suit from

[1] This clause was added by the Chota Nagpur Tenancy (Amendment) Act, 1903 (Ben. Act 5 of 1903), s. 44, *post*, p. 426.

[2] S. 144A was inserted by the same Act, s. 45, *post*, p. 426.

[3] This reference to Act 10 of 1877 should now be read as applying to Act 14 of 1882—see s. 3 of the latter Act, printed in the General Acts, 1882-84, Ed. 1898, p. 264.

[4] S. 145A was inserted by the Chota Nagpur Tenancy (Amendment) Act, 1903 (Ben. Act 5 of 1903), s. 46, *post*, p. 426.

[5] Printed in the General Acts, 1882-84, Ed. 1898, p. 262.

of 1879.]

TENANT PROCEDURE ACT.

(Secs. 147-150.)

any Deputy Collector and try it himself, or refer it to another Deputy Collector.

147. If the lands comprised in any taluk, farm or other tenure, or any lands held under one lease or engagement, or at one entire rent, in respect of which arrears of rent may be due, are situated in more than one district or sub-division, the district or sub-division in which the greater part of such lands is situated shall be held to be the district or sub-division in which the cause of action has arisen;

Procedure if lands are situated in more than one district or sub-division.

and if any question shall be raised respecting the district or sub-division in which the greater part of the lands is situated, the Board of Revenue, or, if all the lands are situated in one district, the Deputy Commissioner of the district, shall decide the question, and such decision shall be conclusive on the point of jurisdiction.

148. Except as provided in the last preceding section, no Deputy Commissioner shall exercise any jurisdiction under this Act in respect of any lands situated beyond the limits of the district to which he is appointed, by reason of such lands forming part of an estate, the revenue of which is paid into the treasury of the said district.

Restriction on exercise by Deputy Commissioner of jurisdiction in respect of lands situate beyond his district. Service of notice or summons.

149. Every notice or summons in and by this Act required to be served on any person may be served—

- (1) by delivering the same to the person to whom it is directed;
- or on failure of such service, by posting the same on some conspicuous part of the house in which the said person usually resides;
- or by delivering the said notice or summons to a general agent of the person to whom such notice or summons is directed, or to any person who has been appointed in that behalf; or
- (2) by sending a registered letter, containing such notice or summons directed to the said person at his usual place of abode;
- (3) or, if no such place of abode can be found, and if the notice of summons cannot be served in any of the other modes mentioned in this section, by posting the same at the *dhanda* of the village or holding to which the notice or summons relates.

150. Nothing contained in this Act shall be held to affect the provisions of Bengal Act 2 of 1869[1]* * [2].

Saving clause.

[1] The Chota Nagpur Tenures Act, 1869. It is printed *ante*, p. 345.

[2] The words and figures "or of Bengal Act 6 of 1876," in s. 150, were repealed by the Repealing and Amending Act, 1903 (1 of 1903), and are omitted.

[1] *Further provisions as to Mundari khunt-kattidars.*

Application
of preceding
sections to
Mundari
khunt-katti-
dari tenan-
cies.

[1] 151. Such of the preceding sections as are applicable to Mundari khunt-kattidars shall, in their application to such persons and their tenancies, be read subject to the provisions of the following sections.

Restrictions
on transfer of
Mundari
khunt-katti-
dari tenan-
cies.

[1] 152. (1) No Mundari khunt-kattidari tenancy or portion thereof shall be transferable by sale, whether in execution of a decree or order of a Court or otherwise:

Provided that, when a decree or order has been made by any Court for the sale of any such tenancy or portion thereof, in satisfaction of a debt due under a mortgage (other than a usufructuary mortgage) which was registered before the commencement [2] of the Chota Nagpur Tenancy (Amendment) Act, 1908, [3] the sale may be made with the previous sanction of the Deputy Commissioner.

Ben. Act 5 of
1908.

(2) If the Deputy Commissioner refuses to sanction the sale of any such tenancy or portion thereof under the proviso to sub-section (1), he shall attach the land and make such arrangements as he may consider suitable for liquidating the debt.

(3) No mortgage of a Mundari khunt-kattidari tenancy or any portion thereof shall be valid, except a bhugut bandha mortgage for a period not exceeding seven years.

(4) No lease of a Mundari khunt-kattidari tenancy or any portion thereof shall be valid, except a lease of one or other of the following kinds, namely:—

- (a) mukarrari leases of uncultivated land, when granted to a Mundari or a group of Mundaris for the purpose of enabling the lessees or the male members of their families to bring suitable portions of the land under cultivation;
- (b) leases of uncultivated land, when granted to a Mundari cultivator to enable him to cultivate the land as a raiyat.

Explanation.—The expression “uncultivated land,” as used in this sub-section, includes land which though formerly cultivated is not, at the time the lease is granted, either under cultivation or in the occupation of the lessee for purposes of cultivation.

(5) Where a Mundari khunt-kattidari tenancy is held by a group of

[1] This heading and ss. 151 to 164 were added by the Chota Nagpur Tenancy (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 47, *post*, p. 426.

[2] The 4th November, 1908.

[3] Printed *post*, p. 420.

of 1879.]

TENANT PROCEDURE ACT.

(Secs. 153-155.)

Mundari khunt-kattidari, no bhugut bandha mortgage or mukarrari lease of the tenancy or any portion thereof shall be valid unless it is made with the consent of all the Mundari khunt-kattidars.

(6) No transfer of a Mundari khunt-kattidari tenancy or any portion thereof, by any contract or agreement made otherwise than as provided in the foregoing sub-section, shall be valid.

(7) Nothing in the foregoing sub-sections shall affect any sale or, except as declared in the proviso to sub-section (1), any mortgage, or any lease, made before the commencement [1] of the Chota Nagpur Tenancy (Amendment) Act, 1903. [2]

Ben. Act 5 of 1903.

[8] 153. If any person, after the commencement [1] of the Chota Nagpur Tenancy (Amendment) Act, 1903, [2] obtains possession of a Mundari Khunt-Kattidari tenancy or any portion thereof, in contravention of the provisions of section 152, the Deputy Commissioner may eject him therefrom ;

Ben. Act 5 of 1903.

Ejection of persons unlawfully obtaining possession of such tenancies.

and if the tenancy was, before such possession was obtained, entered as a Mundari khunt-kattidari tenancy in a record-of-rights finally published under section 103A, sub-section (2), [4] of the Bengal Tenancy Act, 1885, no suit shall be maintainable in any Court in respect of such ejection; but an appeal shall lie to the Commissioner, if presented within three months from the date of the ejection, and his decision shall be final.

8 of 1885.

[8] 154. (1) The rent of a Mundari khunt-kattidari tenancy may be enhanced only—

Enhancement of rent.

(a) by an order of the Deputy Commissioner, and

(b) if it be shown before the Deputy Commissioner that the tenancy was created within a period of twenty years immediately preceding the presentation of the petition for enhancement.

(2) An order of the Deputy Commissioner under sub-section (1) shall not enhance the rent of any such tenancy to an amount which would exceed one-half of the rent which would be payable for the land if it were held by a raiyat having a right of occupancy therein.

(3) The provisions of sections 22 to 24 shall be applicable to proceedings for the enhancement of the rent of a Mundari khunt-kattidari tenancy.

[8] 155. (1) When an arrear of rent accrues in respect of a Mundari

Recovery of arrears of rent

[1] The 4th November, 1903.

[2] Printed, *post*, p. 420.

[3] Ss. 153 to 155 are new—see foot-note [1] on p. 400, *ante*.

[4] Printed *ante*, p. 292.

under the certificate procedure, where there is a record-of-rights.

khunt-kattidari tenancy for which a record-of-rights has been prepared under Chapter X [1] of the Bengal Tenancy Act, 1885, or any other law for 8 of 1885. the time being in force,

no suit shall be maintainable in any Court for the recovery of the arrear; but the landlord may apply in writing to the Deputy Commissioner to make a certificate authorising the recovery thereof, with simple interest at six and-a-quarter *per centum per annum*, or, in the case of money recoverable under the Cess Act, 1880, [2] with simple interest at twelve and-a-half *per centum per annum*, under the Public Demands Recovery Act, 1895.[3]

Ben. Act 9 of 1880.
Ben. Act 1 of 1895.

(2) Upon receiving any such application, the Deputy Commissioner may, after making such inquiry and taking such evidence as he may consider necessary, make a certificate as aforesaid.

(3) The person in whose favour any such certificate is made shall be deemed to be the decree-holder for the amount mentioned in the certificate, and the person against whom the certificate is made shall be deemed to be the judgment-debtor for the said amount: and all proceedings taken by the Certificate Officer for the recovery of such amount shall be taken at the instance of the first-mentioned person, and at his cost and on his responsibility and not otherwise.

(4) Every such certificate shall have the same effect as a certificate made under section 7 of the said Public Demands Recovery Act, 1895 [3]; and the following portions of that Act shall be applicable, namely, the proviso to section 7, sub-section (1); section 9, sub-sections (2) and (3); section 10, sub-section (1); and sections 11 to 14, 18, 19, 22 and 24 to 33:

Ben. Act 1 of 1895.

Provided as follows:—

- (a) a certificate made under this section may be enforced only by the attachment and sale of the moveable property of the person against whom the certificate is made, or by the attachment and realisation of rent or other debts due to him, or by execution against his person in the manner provided by this Act, or by any two or more of these processes; and
- (b) no objection by any third person to the attachment or sale of crops shall be entertained except—
 - (i) an objection, by a mortgagee holding under a bhugut

[1] Printed ante, p. 290.

[2] Printed in Vol. I of this Code, p. 104.

[3] Printed in Vol. IV of this Code.

of 1879.]

TENANT PROCEDURE ACT.

(Sec. 156.)

bandha mortgage, that the judgment-debtor has other moveable property or assets from which the sum due can be realised; or

(ii) an objection, by a lessee holding under a mukarrari lease as described in section 152, clause (a), that the land in respect of which the arrear accrued is included in his lease, and that the judgment-debtor has other moveable property or assets from which the sum due can be realised; or

(iii) an objection, by a cultivator that he is in possession of the land in respect of which the arrear accrued, that the land is recorded in the record-of-rights as being in the possession of himself or of some person from whom he has lawfully acquired such possession, and that the judgment-debtor has other moveable property or assets from which the sum due can be realised; or

(iv) an objection, by such third person, that the land on which such crops were or are standing is entered in the record-of-rights as being in the possession of himself or of some person from whom he has lawfully acquired possession, and that such land does not form part of the tenancy in respect of which the certificate was made.

(5) The provisions of sections 99 to 122 shall, so far as the same may be applicable, apply to proceedings under sub-section (4).

Ben. Act 1 of 1895. (6) If no appeal is presented under section 32 of the Public Demands Recovery Act, 1895, [1] or if any such appeal is decided against the judgment-debtor, the certificate shall become absolute, and shall have the same force and effect as a final decree of a Civil Court.

(7) Notwithstanding anything hereinbefore contained, the Deputy Commissioner may, in any case, by written order setting forth the reasons therefor, refuse to make a certificate as aforesaid, or stay for any specified period the execution of any certificate which has been made.

(8) An appeal shall lie to the Commissioner from any order made under sub-section (7), if presented within one month from the date of the order; and his decision shall be final.

[2] 156. If, in the course of any proceedings under section 155, any Reference of question of

[1] Printed in Vol. IV of this Code.

[2] Section 156 is new—see foot-note [1] on p. 400, ante.

Title to Civil Court.

question of title is raised which could, in the opinion of the Deputy Commissioner, more properly be determined by a Civil Court, the Deputy Commissioner shall refer such question to the principal Civil Court in the district for determination.

Recovery of arrear of rent by suit where there is no record-of-rights.

[1] 157. (1) When an arrear of rent accrues in respect of a Mundari khunt-kattidari tenancy for which no record-of-rights has been prepared, the landlord may institute a suit for the recovery of the arrear.

(2) A decree or order made in any such suit may be enforced only by the attachment and sale of the moveable property of the defendant, or by the attachment and realisation of rent or other debts due to him, or by execution against his person in the manner provided by this Act, or by any two or more of these processes.

Joinder of parties in proceedings under section 156 or 157.

[1] 158. Where a Mundari khunt-kattidari tenancy is held jointly by a group of khunt-kattidars,

and an objection to the making of a certificate under section 155, or to the execution thereof, or to the maintenance of a suit under section 157, is made, on the ground that all the khunt-kattidars have not been made parties to the proceedings, the objection shall not be entertained if it be shown that other khunt-kattidars could not be made parties without undue delay or expense.

Entry of Mundari khunt-kattidari tenancies in record-of-rights.

[1] 159. All Mundari khunt-kattidari tenancies shall be so described in the record-of-rights prepared under Chapter X [2] of the Bengal Tenancy Act, 8 of 1885. 1885.

Decision of disputes regarding entries or omissions in record-of-rights.

[1] 160. (1) At any time within three months from the date of the certificate of the final publication of the record-of-rights under the Bengal Tenancy Act, 1885, section 103A, sub-section (2), [3] a suit may be instituted before the Revenue-officer who prepared such record, by presenting a plaint on stamped paper, 8 of 1885.

for the decision of any dispute regarding any entry of a Mundari khunt-kattidari tenancy or the incidents thereof in the record, or regarding any omission to enter such a tenancy or any incident thereof in the record;

and the Revenue-officer shall hear and decide the dispute.

(2) In all such suits the Revenue-officer shall, subject to any rules made by the Local Government in this behalf, adopt the procedure laid down in this

[1] Secs. 157 to 160 are new—see foot-note [1] on p. 400, ante.

[2] Printed ante, p. 290.

[3] Printed ante, p. 292.

of 1879.]

TENANT PROCEDURE ACT.

(Secs. 161-164.)

Act for the trial of suits; and his decision shall, subject to an appeal to the Commissioner under section 161, be final.

[1] 161. An appeal shall lie to the Commissioner from any decision of a Revenue-officer under section 160, if presented within three months from the date of the decision; and the decision of the Commissioner shall be final. Appeal against such decisions.

[1] 162. Whenever a suit instituted under section 160 has been finally decided, a note of the decision shall be made in the record-of-rights, as finally published, by the Revenue-officer who prepared the record; and such note shall be considered as part of the record. Entry of decisions in record-of-rights.

3 of 1885.

[1] 163. When [an order has been issued under section 101^[2] of the Bengal Tenancy Act, 1885, in respect of any local area, estate, tenure or part thereof, no judgment, decree or order in any suit instituted thereafter, shall be taken as evidence, In preparing record-of-rights, judgments, &c., in suits not to be taken as evidence that tenancies are or are not Mundari khunt-kattidari tenancies.

in any inquiry made by a Revenue-officer engaged in the preparation of a record-of-rights for such area, estate, tenure or part, under Chapter X of the said Act,

respecting any claim that any tenancy within that area, estate, tenure or part is or is not a Mundari khunt-kattidari tenancy.

3 of 1885.

[1] 164. When a record-of-rights has been finally published under section 103A, sub-section (2),^[2] of the Bengal Tenancy Act, 1885, or amended under section 162 of this Act, the entries therein relating to Mundari-khunt-kattidari tenancies shall be conclusive evidence of the nature and incidents of such tenancies; Record-of-rights to be conclusive evidence on the question whether a tenancy is a Mundari khunt-kattidari tenancy.

and if any tenancy in the area, estate or tenure for which the record-of-rights was prepared has not been recorded therein as a Mundari khunt-kattidari tenancy, no evidence shall be received in any Court to show that such tenancy is a Mundari khunt-kattidari tenancy.

[1] Ss. 161 to 164 are new—see foot-note [1] on p. 400, *ante*.

[2] Printed *ante*, p. 290.

[3] Printed *ante*, p. 292.

THE CHOTA NAGPUR LANDLORD AND
(Schedules B and C.)

[Ben. Act 1]

Schedule A.—[Acts repealed.] Rep. by the Repealing and Amending Act, 1903 (1 of 1903).

SCHEDULE B.*

(see section 14.)

I, A. B., of &c., do solemnly declare that I did personally (or by my agent C. D.) on the day of tender payment to E. F. at his mal-outcherry (or at), the place where the rent of the lands at held or cultivated by me under or from the said E. F. are usually payable, of the sum of Rupees as and for the whole amount due from me in respect of the rent of the said lands, from the month of to the month of both inclusive. I further declare that the said E. F. refused to accept the said sum so tendered (or to give me a receipt in full forthwith for the same). And I do declare that to the best of my belief the sum of Rupees so tendered, and which I now desire to pay into Court, is the full amount which I owe the said E. F. on account of the rent of the said lands from the month of to the month of , both inclusive, and that I owe the said E. F. no further sum on account of the rent of the said lands.

SCHEDULE C.†

(see section 14.)

Court of the Deputy Commissioner of

Dated the day of 18 .

To E. F., of &c.

With reference to the within declaration, you are hereby informed that the sum of Rupees therein mentioned is now in deposit in this Court, and that the above sum will be paid to you or to your duly-authorised agent on application. And take notice that if you have any further claim or demand whatsoever to make against the said A. B. in respect of the rent of the said lands, you must institute a suit [1] ([or, as the case may be, make an application]) in Court for the establishment of such claim or demand with-

* If this declaration is made by an agent, it must be altered accordingly.

† This is to be by endorsement on a copy of the declaration under Schedule B made by the person paying the money into Court.

[1] These words in brackets in Sch. C were inserted by the Chota Nagpur Tenancy (Amendment) Act, 1903 (Ben. Act 5 of 1903), s. 43, *post*, p. 426.

of 1879.]

TENANT PROCEDURE ACT.

(Schedules D and E.)

in six calendar months from this date, otherwise your claim will be for ever barred.

SCHEDULE D.

(see section 55.)

FORM OF SUMMONS TO DEFENDANT.

No.

(of suit) dated

In the Court of

A. B., Plaintiff.

[Name, description and address of plaintiff.]

C. D., Defendant.

[Name, description and address of defendant.]

Whereas the said A. B. has brought a claim against you in this Court for [here specify particulars of claim as given in the statement] you are hereby required to appear in person in this Court on the day of [if not specially required to appear in person, state "in person or by an agent who has personal knowledge of the subject, or who shall be accompanied by a person who has such knowledge" to answer the above-named plaintiff, and you will bring with you (or send by your agent) [here mention any document the production of which may be required by the plaintiff] which the plaintiff desires to inspect, and all documents on which you may intend to rely in support of your defence. You will also bring with you your witnesses, if they are willing to attend without issue of process.

SCHEDULE E.

(see section 57.)

FORM OF WARRANT OF ARREST.

No.

(of suit) dated

In the Court of

A. B., Plaintiff.

C. D., Defendant.

To

The Nazir of the Court of the Deputy Commissioner of

Whereas the plaintiff in this suit has obtained an order from the Court

LANDLORD AND TENANT.

THE CHOTA NAGPUR LANDLORD AND

[Ben. Act 1.]

(Schedules F and G.)

for the arrest of the defendant, you are hereby commanded to bring the defendant before the Court on or before the _____ day of _____ to be dealt with according to law.

Dated this _____ day of _____ 18____

SCHEDULE F.

(see section 57.)

FORM OF NOTICE TO ACCOMPANY SUCH WARRANT.

In the Court of

A. B., Plaintiff.

[Name, description and address of plaintiff.]

C. D., Defendant.

[Name, description and address of defendant.]

Whereas the said A. B. has brought a claim against you in this Court for [*here specify particulars of claim as given in the statement*] and has obtained a warrant for your arrest, you are hereby required, unless you admit the claim, to bring with you to the Court all documents on which you may intend to rely in support of your defence.

SCHEDULE G.

(see section 59.)

FORM OF SECURITY BOND FOR APPEARANCE OF DEFENDANT.

Whereas A. B., plaintiff, has instituted a suit in the Court of the Deputy Commissioner of _____ against C. D., defendant, and the said C. D. has been required to give security for his appearance at any time when called on while the suit is depending and until execution of the decree, I, E. F., hereby declare myself surety for the said C. D.'s appearance as aforesaid, and in case of his making default in such appearance, I engage to pay any sum for the payment of which the said C. D. may be liable under the decree. [*If the suit be for the delivery of papers or accounts, specify some sum to be fixed by the Deputy Commissioner.*]

of 1879.]

LANDLORD AND TENANT.

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TENANT PROCEDURE ACT.

(Schedules H and I.)

SCHEDULE H.

(see section 99.)

WRIT OF EXECUTION AGAINST THE PERSON.

A. B., Plaintiff.

C. D., Defendant.

To

The Nazir of the Court of the Deputy Commissioner of

Whereas the said C. D. was directed by a decree of this Court, under date the day 18 , to pay to A. B. the sum of

and for costs of suit, amounting to

, and whereas the said C. D. has omitted to pay the same, you are hereby commanded to apprehend the said C. D., and to bring him, with all convenient speed, before this Court to be dealt with according to law.

SCHEDULE I.

(see section 99.)

WRIT OF EXECUTION AGAINST MOVEABLE PROPERTY.

A. B., Plaintiff.

C. D., Defendant.

To

The Nazir of the Court of the Deputy Commissioner of

Whereas C. D. was directed by a decree of this Court, under date the day of 18 , to pay to A. B. the sum of

, and for costs of suit, amounting to , and

whereas the said C. D. has omitted to pay the same, you are hereby commanded to levy the said sum of , and the sum of for costs of executing this process, by seizure and sale of such moveable property of the said C. D. as (is described in the list annexed, and) [*if no list is furnished, these words to be omitted*] shall be pointed out to you by the judgment-creditor or his agent; and you are hereby ordered to sell such property of the said C. D. on some convenient day, not being less than ten nor more than fifteen days from the day of seizure, unless the amount leviable as aforesaid shall be sooner paid; and you are hereby commanded to certify to me what you shall do by virtue of this warrant.

THE CHOTA NAGPUR COMMUTATION ACT, 1897

(BENGAL ACT 4 OF 1897).

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COMMUTATION ACT, 1897.

(Chapter I.—Preliminary.—Secs. 1-3.)

THE CHOTA NAGPUR COMMUTATION ACT, 1897

(BENGAL ACT 4 of 1897). [1]

[20th October, 1897.]

An Act to regulate the commutation of predial conditions or services in parts of Chota Nagpur.

WHEREAS it is expedient to amend the law relating to the voluntary commutation of conditions or services appurtenant to the occupation of land other than the rent in certain districts in the Chota Nagpur Division, and to provide for the compulsory record, with or without commutation, of such conditions or services as aforesaid, in the said districts;

It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Chota Nagpur Commutation Act, 1897;

Short title,
extent and
commence-
ment.

(2) It extends to the districts of Hazaribagh, Lohardaga, [2] Palamau and Singhbhum, [3] in the Chota Nagpur Division; and

(3) It shall come into force in any such district or in any part thereof on such day [4] as the Local Government may appoint in that behalf by notification in the Calcutta Gazette.

2. [Repeal of Ben. Act 1 of 1879, ss. 25 and 26.] *Rep. by the Repealing and Amending Act, 1903 (1 of 1903).*

3. (1) In this Act, unless there is anything repugnant in the subject or context,—

(a) "Revenue-officer" means any officer whom the Local Government may from time to time appoint, by name or by virtue of his office, to discharge any of the functions of a Revenue-officer under this Act;

[1] LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1897, Pt. IV, p. 13; and for Proceedings in Council, see *ibid* Supplement, 1897, pages 153, 160, 581, 3369 and 4038.

LOCAL EXTENT.—This Act extends to the Chota Nagpur Division, except the district of Manbhum—see s. 1 (2).

REPRINT.—This Act has been reprinted (by the Legislative Department of the Government of Bengal) as modified by subsequent legislation up to the 30th September, 1903.

[2] The District of Lohardaga is now named the Ranchi District—see Notification No. 139 J., dated the 9th January, 1899, in Calcutta Gazette, 1899, Pt. I, p. 44.

[3] i.e., the whole of the Chota Nagpur Division, except only the District of Manbhum.

[4] This Act came into force on the 10th August, 1898—see Notification No. 2648 L. R., dated the 9th *idem*, in the Calcutta Gazette, 1898, Pt. I, p. 856.

(Chapter II.—Commutation and Record of Predial Conditions or Services.—
Sec. 4.)

- (b) "predial conditions or services" mean conditions or services appurtenant to the occupation of land other than the rent;
- (c) "conditions" include *rakumats* and *abwabs* which, by custom, are payable by raiyats to their landlords, and
- (d) "agricultural year" means the year prevailing in a local area for agricultural purposes.

(2) If it appears to the Local Government to be doubtful what year prevails in any particular area for agricultural purposes, the Local Government may, by notification in the Calcutta Gazette, declare upon what dates such year shall be deemed to commence and terminate respectively.

CHAPTER II.

COMMUTATION AND RECORD OF PREDIAL CONDITIONS OR SERVICES.

Voluntary
commutation
of predial
conditions or
services.

4. (1) When any land is held subject to any predial conditions or services the tenant of such land, or the person who has the right to the benefit of such conditions or services, may apply in writing to the Revenue-officer for commutation of such conditions or services.

(2) The Revenue-officer shall thereupon cause a notice to be served on each of the other persons who, under sub-section (1), would have a right to make such application, and shall fix a day for considering the application; and on such day, or on any day thereafter to which the hearing may be adjourned, shall proceed to inquire into the matter and to determine the amount which, in his judgment, is fairly and equitably payable in commutation of such conditions or services.

(3) In calculating the said amount, the Revenue-officer shall have regard to the conditions or services to which the tenant is liable in accordance with ancient custom, and the money value of such conditions or services at the time of making such calculation :

[1] [Provided that the amount payable in commutation shall be so fixed that the total annual rent of the land, including such amount as aforesaid, shall not exceed the rent which would be fair and reasonable if the land were not held subject to any predial conditions or services.]

[1] This proviso was substituted for the original proviso by the Chota Nagpur Tenancy (Amendment) Act, 1903 (Ben. Act 5 of 1903), s. 49, *post*, p. 426. The original proviso ran thus :—

"Provided that, in the case of conditions or services other than *rakumats*, the amount payable in commutation shall not exceed one-fourth of the annual rent payable by the tenant."

of 1897.]

COMMUTATION ACT, 1897.

(Chapter II.—Commutation and Record of Predial Conditions or Services.—
Secs. 5-7.)

5. (1) The Local Government may, in any case in which it is, in its opinion, expedient so to do, make an order directing either—

Power to order record of predial conditions or services, with or without commutation.

(a) that a record of all predial conditions or services to which the lands within any local area or any estate, tenure or part thereof are subject shall be prepared, and a commutation of such conditions or services made, by a Revenue-officer; or

(b) that a record as aforesaid be made by a Revenue-officer without commutation of such conditions or services as aforesaid.

(2) A notification in the Calcutta Gazette of an order under this section shall be conclusive evidence that the order has been duly made.

(3) The record of conditions or services shall be prepared in accordance with rules made under section 13.

[1] 6. (1) Whenever an order is made under section 5, the Revenue-officer shall thereupon proceed to prepare a record containing the following particulars, namely:—

Preparation of record.

(a) the name of each tenant;

(b) the name of his landlord;

(c) the rent payable for the lands held by him at the time the record is being prepared;

(d) the predial conditions or services to which all or any of such lands are subject;

(e) the amount which, in the judgment of the Revenue-officer, may fairly be deemed payable in commutation of such conditions or services, and

(f) such other particulars as may from time to time be prescribed by the Board of Revenue.

(2) In calculating the amount payable in commutation of such conditions or services, the Revenue-officer shall be guided by the provisions of section 4, sub-section (3).

[1] 7. (1) When the Revenue-officer has prepared a record under section 6, he shall cause a draft of the same to be locally published in the manner and for the period prescribed in the rules made under section 13, and shall receive and consider any objections which may be made to any entry therein or to any omission therefrom during the period of publication.

Publication of record.

[1] Where a survey and record-of-rights are being made under the Bengal Tenancy Act, 1905, ss. 6 and 7 are superseded by s. 9 A, *post*, p. 414.

(Chapter II.—*Commulation and Record of Predial Conditions or Services.*—
Ses. 8-9A.)

(2) When objections have been considered and disposed of in accordance with the rules made under section 13, the record shall be finally framed and published in the manner prescribed by those rules.

(3) Separate drafts or records may be published under sub-section (1) or sub-section (2) for different local areas, estates, tenures or parts thereof.

Appeal from
orders of Re-
venue-officers.

[1] 8. (1) An appeal from any order of a Revenue-officer under this Chapter shall lie to the Deputy Commissioner, or if the Revenue-officer is himself the Deputy Commissioner, then to the Commissioner of the Division.

(2) When an appeal has been disposed of by the Deputy Commissioner under sub-section (1), an appeal from his order shall lie to the Commissioner.

(3) The provisions of the Code of Civil Procedure [2] relating to appeals 14 of 1882, shall, as nearly as may be, apply to all appeals under sub-section (1) or sub-section (2).

(4) Where the Commissioner concurs with the Deputy Commissioner the order shall be final, but in other cases an appeal shall lie to the Board of Revenue from the order of the Commissioner.

(5) Every appeal under sub-section (1) must be presented within three months, and every appeal under sub-section (2) or sub-section (4) must be presented within one month, from the date of the order appealed against.

Revision by
Commissioner
or Board.

[1] 9. The Commissioner or the Board of Revenue may direct the revision of any record prepared under this Chapter, or any portion of such record, at any time within two years from the date of the final publication of the record, but not so as to affect any decision from which an appeal has been preferred under section 8 :

Provided that no such direction shall be made until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

Procedure
where a survey
and record-of-
rights are
being made
under the
Bengal Ten-
ancy Act,
1885.

[3] 9A. In every local area, estate, tenure or part thereof, in which a survey is being made and a record-of-rights is being prepared under an order issued under section 101 [4] of the Bengal Tenancy Act, 1885,

8 of 1885.

and in which a record of predial conditions or services is being prepared and a commutation thereof is being made under an order issued under section 5 of this Act,

[1] Where a survey and record-of-rights are being made under the Bengal Tenancy Act, 1885, ss. 8 and 9 are superseded by s. 9A, printed on this page.

[2] Printed in General Acts, 1882-83, Ed. 1898, p. 262.

[3] S. 9A was inserted by the Chota Nagpur Tenancy (Amendment) Act, 1903 (Ben. Act 5 of 1903), s. 50, post, p. 426.

[4] Printed ante, p. 290.

of 1897.]

COMMUTATION ACT, 1897.

(Chapter II.—*Commutation and Record of Predial Conditions or Services.*—
Sec. 9A.)

the following provisions shall have effect, instead of those contained in sections 6 to 9 of this Act, namely:—

- (1) The Revenue-officer shall, at the time of attesting the preliminary record, ascertain all the predial conditions or services to which, by ancient custom, the general body of tenants are liable, and the cash values of such services;
and shall prepare a statement, in such form as the Board of Revenue may from time to time prescribe, showing the conditions, services and values so ascertained.
- (2) In calculating the cash value of such services the Revenue-officer shall be guided by the provisions of section 4, sub-section (3).
- (3) The Revenue-officer shall enter in the *khatiyán* of each tenant the cash value of the predial conditions or services (if any) to which such tenant is liable, as ascertained under clause (1).
- (4) If any tenant, by ancient custom, is liable to any predial conditions or services other than those to which the general body of tenants are liable, or is not liable to all the predial conditions or services to which the general body of tenants are liable, the Revenue-officer shall also specify in the *khatiyán* the predial conditions or services to which such tenant is liable.
- (5) The statement prepared under clause (1), and the entries in the *khatiyán*, shall be published in draft in the same manner and for the same period as the record-of-rights.
- (6) Objections as to entries or omissions, in the statement or *khatiyán*, relating to predial conditions or services, may be made under the same conditions as objections to entries in or omissions from the record-of-rights, and shall be disposed of in the same manner as such objections.
- (7) After the disposal of objections, the said statement, and the entries in the *khatiyán* relating to predial conditions or services, shall be finally published at the same time and in the same manner as the record-of-rights.
- (8) At any time within three months from the date of the certificate of the final publication of the record-of-rights under the Bengal Tenancy Act, 1885, section 103A., sub-section (2) [1] a suit may

(Chapter II.—*Commutation and Record of Predial Conditions or Services.*—
Secs. 10, 11.)

be instituted before the Revenue-officer who prepared such record, by presenting a plaint on stamped paper,

for the decision of any dispute regarding any entry in the record relating to predial conditions or services, or regarding any omission to enter any such conditions or services in the record ;

and the Revenue-officers shall hear and decide the dispute.

- (9) In all such suits the Revenue-officer shall, subject to any rules made by the Local Government in this behalf, adopt the procedure laid down in the Chota Nagpur Landlord and Tenant Procedure Act[1] for the trial of suit; and his decision shall, subject to an appeal to the Commissioner under clause (10), be final.

Ben. Act 1 of
1879.

- (10) An appeal shall lie to the Commissioner from any decision of a Revenue-officer under clause (8), if presented within three months from the date of the decision; and the decision of the Commissioner shall be final.

Commence-
ment and
effect of com-
mutation.

10. (1) When the commutation of any predial conditions or services is settled under this Chapter for any local area or estate, tenure or part thereof, the settlement shall take effect from the beginning of the agricultural year next after the final publication of the record; and from that time the imposition of any predial conditions or services on any tenants of the local area or estate, tenure or part thereof shall be illegal, and all stipulations and reservations for rendering or requiring such conditions or services within the local area or estate, tenure or part thereof shall be void.

(2) The amount determined by a Revenue-officer under this Chapter to be payable by a tenant in commutation of predial conditions or services shall be deemed to be part of the rent payable by the tenant, and shall be recoverable accordingly.

Expenses of
voluntary
commutation.

11. (1) The Revenue-officer may require any person applying for commutation under section 4 to deposit in advance the whole or any part of the estimated amount of the expenses to be incurred thereunder.

(2) When in any case the proceedings under section 4 have been completed, the Revenue-officer shall apportion the total expenses thereof between the landlord and tenant in such proportion as, having regard to all the circumstances, he may deem fit, and the amounts so apportioned shall be recoverable as an arrear of land-revenue.

of 1897.]

COMMUTATION ACT, 1897.

(Chapter II.—*Commutation and Record of Predial Conditions or Services.*—

Chapter III.—*Rules.*—Secs. 12-13.)

(3) If the amount deposited by any person in pursuance of sub-section (1) exceeds the sum apportioned to him under sub-section (2), the excess shall, when the proceedings have been completed, be refunded to him.

12. (1) The expenses incurred by the Government in carrying out in any local area or any estate, tenure or part thereof any order made under section 5, or such part of those expenses as the Local Government may direct, shall be defrayed by the landlords and tenants of land in that local area, estate, tenure or part, in such proportions as the Local Government, having regard to all the circumstances, may determine.

Expenses of record and compulsory commutation.

(2) The portion of the aforesaid expenses which any person is liable to pay shall be recoverable by the Government as if it were an arrear of land-revenue due in respect of the said local area, estate, tenure or part.

Explanation.—The word “tenure” in this section includes all revenue-free and rent-free tenures and holdings within a local area, estate or tenure.

[1] 12A. No proceedings under this Act shall bar the right of any tenant or landlord to claim a reduction or enhancement of rent in accordance with law after such proceedings have been completed.

Saving of right to claim reduction or enhancement of rent.

CHAPTER III.

RULES.

13. The Local Government may, from time to time, by notification in the Calcutta Gazette, make rules [2]—

Power to make rules.

(1) to regulate the procedure to be followed by Revenue-officers in the discharge of any duty imposed upon them by or under this Act, and may by such rules confer upon any Revenue-officer—

- (a) any power exercised by a Civil Court in the trial of suits,
- (b) power to enter upon any land, and to survey, demarcate and make a map of the same, and
- (c) any power exercisable by any officer under the Bengal Survey Act, 1875: [3]

(2) to prescribe the mode of service of notices under section 4;

(3) to prescribe the manner of preparing records under Chapter II;

Ben. Act 5 of 1875.

[1] S. 12A was inserted by the Chota Nagpur Tenancy (Amendment) Act, 1903 (Ben. Act 5 of 1903), s. 51, *post*, p. 426.

[2] For rules, see the Bengal Local Statutory Rules and Orders, 1903, Vol. II, p. 240.

[3] Printed in Vol. IV of this Code.

THE CHOTA NAGPUR COMMUTATION ACT, 1897. [Ben. Act 4 of 1897.]

(Chapter III.—Rules.—Sec. 14.)

THE CHOTA NAGPUR TENANCY (AMENDMENT) [Ben. Act 5 of 1903.]
ACT, 1903.

(4) to prescribe the manner in which and the period for which draft records shall be published under section 7, and the manner in which objections to a draft record shall be disposed of;

(5) to prescribe the manner in which records shall be finally published under section 7, and

(6) generally, for the guidance of Revenue-officers in carrying out the provisions of Chapter II.

Procedure
for making
and publish-
ing rules.

14. (1) The Local Government shall, before making rules under section 13, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

(2) The publication shall be made in such manner as may, in the opinion of the Local Government, be sufficient for giving information to persons interested:

Provided that every such draft shall be published in the Calcutta Gazette.

(3) There shall be published with the draft a notice specifying a day, not earlier than one month after the date of publication, on or after which the draft will be taken into consideration.

(4) The Local Government shall consider any objection or suggestion which may be received by it from any person with respect to the draft before the day so specified.

(5) The publication in the Calcutta Gazette of a rule purporting to be made under this Act shall be conclusive evidence that it has been duly made.

(6) All rules made under this Act may from time to time be amended, added to, or cancelled by the Local Government.

THE CHOTA NAGPUR TENANCY (AMENDMENT) ACT, 1903

(BENGAL ACT 5 OF 1903).

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23. Amendment of section 44.
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33. Amendment of section 105.
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SECTION.

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THE CHOTA NAGPUR TENANCY (AMENDMENT)
ACT, 1903

(BENGAL ACT 5 OF 1903). [1]

[30th September, 1903.]

Ref. Ben. Act 6 of 1905

An Act to amend the Chota Nagpur Landlord and Tenant Procedure Act [2] and the Chota Nagpur Commutation Act, 1897. [3]

WHEREAS it is expedient to amend the Chota Nagpur Landlord and Tenant Procedure Act [2] and the Chota Nagpur Commutation Act, 1897 [3];

And whereas the previous sanction of the Governor General has been obtained, under section 5 of the Indian Councils Act, 1892, [4] to the provisions of this Act which affect Acts passed by the Governor General of India in Council;

It is hereby enacted as follows :—

PART I.—PRELIMINARY.

1. (1) This Act may be called the Chota Nagpur Tenancy (Amendment) Act, 1903; and

(2) It shall come into force on such date [5] as the Local Government, with the previous sanction of the Government of India, may, by notification in the Calcutta Gazette, appoint in this behalf.

[1] LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, *see* Calcutta Gazette, 1903, Part IV, p. 12, for Report of Select Committee, *see* *ibid*, p. 25, and for Proceedings in Council, *see* *ibid*, Part IV A, pp. 25, 38, 137 and 146.

LOCAL EXTENT.—Since this Act merely amends Bengal Acts 1 of 1879 and 4 of 1897, its local extent must be taken to be the same as that of those Acts, namely, the whole of the Chota Nagpur Division except the district of Manbhum—*see* foot-note [1] on p. 356, *ante*, and foot-note [1] on p. 411, *ante*.

[2] Printed *ante*, p. 356.

[3] Printed *ante*, p. 411.

[4] Printed in the Collection of Statutes relating to India, Vol. II, Ed. 1901, p. 911.

[5] This Act came into force on the 4th November, 1903—*see* Notification No. 2876 T.R., dated the 29th October, 1903, in the Calcutta Gazette, 1903, Part I, p. 1404.

Short title,
commence-
ment and ap-
plication.

Ben. Act 1
of 1879.
Ben. Act 4
of 1897.

55 & 56
Vict., c. 14.

LANDLORD AND TENANT.

421

of 1903.]

TENANCY (AMENDMENT) ACT, 1903.

(Part II.—Amendment of the Chota Nagpur Landlord and Tenant Procedure Act.—Secs. 2-8.)

(3) The provisions of this Act shall apply to all proceedings instituted after the commencement of this Act, and, so far as may be, to all cases pending in any Court or before any officer on the date of such commencement.

PART II.—AMENDMENT OF THE CHOTA NAGPUR LANDLORD AND TENANT PROCEDURE ACT.

Ben. Act 1 of 1879. 2. (1) In section 2[1] of the Chota Nagpur Landlord and Tenant Procedure Act, at the end of the definition of "Deputy Collector" the words "and any Sub-Deputy Collector who is specially empowered by the Local Government to discharge the functions of a Deputy Collector under this Act" shall be inserted. Amendment of section 2 of Bengal Act 1 of 1879.

(2) At the end of the same section the following shall be added, namely:—

(a) to (p). [Printed *ante* pp. 357 to 359.]

Ben. Act 1 of 1879. 3. (1) The words "so long as he pays the rent payable on account of the same," in section 6 of the said Chota Nagpur Landlord and Tenant Procedure Act, are repealed. Amendment of section 6.

(2) To section 6 of the said Act the following shall be added, namely:—

[Printed *ante*, p. 359.]

4. In section 7 of the said Act, before the words "the last preceding section" the words "the first two paragraphs of" shall be inserted. Amendment of section 7.

5. After section 10 of the said Act the following shall be inserted, namely:— Insertion of new sections, 10A and 10B.

10A, 10B. [Printed *ante*, pp. 360 and 361.]

Ben. Act 1 of 1879. 6. For section 11 of the said Chota Nagpur Landlord and Tenant Procedure Act the following shall be substituted, namely:— Amendment of section 11.

11. [Printed *ante*, p. 362.]

7. For section 12 of the said Act the following shall be substituted, namely:— Amendment of section 12.

12. [Printed *ante*, p. 362.]

8. (1) In section 13 of the said Act, for the words "or raiyat," wherever they occur, the words "raiya or Mundari khunt-kattidar" shall be substituted. Amendment of section 13.

(2) In the same section, after the words "entertain a suit" the words "or application" shall be inserted.

(Part II.—Amendment of the Chota Nagpur Landlord and Tenant Procedure Act.—Secs. 9-16.)

(8) To the same section the following shall be added, namely :—

[Printed *ante*, p. 363.]

Amendment
of section 14.

9. (1) In section 14 of the said Act, for the words "or raiyat", in both places in which they occur, the word "raiya or Mundari khunt-kattidar" shall be substituted.

(2) To the same section the following shall be added, namely :—

[Printed *ante*, p. 364.]

Amendment
of section 15.

10. In section 15 of the said Act after the word "brought" the words "and no application for a certificate under section 155 shall be made" shall be inserted; and after the word "instituted" the words "or application made" shall be inserted.

Amendment
of section 17.

11. In section 17 of the said Act—

(a) after the word "rent" the words "or interest thereon" shall be inserted, and

(b) for the words "or raiya", in both places in which they occur, the words "raiya or Mundari khunt-kattidar" shall be substituted.

Insertion of
new sections,
28A and
28B.

2. After section 28 of the said Act the following shall be inserted, namely :—

28A, 28B. [Printed *ante*, p. 367.]

Amendment
of section 30.

13. In section 30 of the said Act, for the word "six" the words "six and-a-quarter" shall be substituted.

Amendment
of section 31.

14. For section 31 of the said Act the following shall be substituted, namely :—

31. [Printed *ante*, p. 368.]

Insertion of
new section,
32A.

15. After section 32 of the said Act the following shall be inserted, namely :—

32A. [Printed *ante*, p. 369.]

Amendment
of section 33.

16. In section 33 of the said Chota Nagpur Landlord and Tenant Procedure Act,—

Ben. Act 1 of
1879.

(a) for the words "or tenure", in the first two places in which they occur, the words "tenure or Mundari khunt-kattidari tenancy" shall be substituted;

(b) for the words "or tenure", in the third place in which they occur, the words "tenure or tenancy" shall be substituted, and

(c) for the words "or raiyat", wherever they occur, the words "raiya or Mundari khunt-kattidar" shall be substituted.

of 1903.]

TENANCY (AMENDMENT) ACT, 1903.

(Part II.—Amendment of the Chota Nagpur Landlord and Tenant Procedure Act.—Secs. 17-26.)

17. For section 34 of the said Act the following shall be substituted, namely :— Amendment of section 34.

34. [Printed *ante*, p. 376.]

18. Section 35 of the said Act is repealed. Repeal of section 35.

19. (1) In section 36 of the said Act, for the words "the two last preceding sections" the word and figures "section 34" shall be substituted. Amendment of section 36.

(2) In the same section, after the word "transferee" the words "or his successor in title" shall be inserted.

20. After the said section 36 the following shall be inserted, namely :— Insertion of new section, 36A.

36A. [Printed *ante*, p. 371.]

21. (1) The words "on account of the illegal exaction of rent or of any unauthorised cess or impost, or on account of the refusal of receipts for rent paid, or," in clause (2) of section 37 of the said Act, are repealed. Amendment of section 37.

(2) After the words "exortion of rent," in the same clause, the words "or interest thereon" shall be inserted.

(3) After clause (5) of the same section the following shall be inserted, namely :—

(5a.) [Printed *ante*, p. 372.]

22. (1) At the beginning of section 39 of the said Act the following shall be inserted, namely :— Amendment of section 39.

[Printed *ante*, p. 373.]

(2) In the same section, for the word and figures "or 33." the figures and word "33 or 154" shall be substituted.

23. In section 44 of the said Act,—

(a) after the word "suits" the words and figures "and applications under section 155" shall be inserted; and

(b) after the word "suit", in both places in which it occurs, the words "or application" shall be inserted. Amendment of section 44.

24. After the said section the following shall be inserted, namely :—

44A. [Printed *ante*, p. 374.]

Insertion of new section, 44A.

25. In section 47 of the said Act, after the word "raiyat" the words "or Mundari khunt-kattidar" shall be inserted. Amendment of section 47.

26. In section 57 of the said Act,—

(a) for the words "or raiyat" the words "raiyat or Mundari khunt-kattidar" shall be substituted, and Amendment of section 57.

(Part II.—Amendment of the Chota Nagpur Landlord and Tenant Procedure Act.—Secs. 27-34.)

- (b) for the words "a dependent taluk or other transferable tenure which, as hereinafter provided," the words "a tenure or holding which" shall be substituted.

Amendment
of section 66.

27. In section 66 of the said Act for the words "fifteen days", wherever they occur, the words "thirty days" shall be substituted.

Amendment of
section 82.

28. (1) In the first paragraph of section 82 of the said Act, for the word "suit" the words "suit or other proceeding under this Act" shall be substituted.

(2) In the same paragraph, after the words "is subordinate" the words "or by any other person whom the Deputy Commissioner may deem fit" shall be inserted.

(3) In the second paragraph of the same section, after the word "officer" the words "or other person" shall be inserted.

(4) At the end of the same section, the words "or other proceeding as aforesaid" shall be added.

Amendment
of section 87.

29. In section 87 of the said Act, for the words "or under-tenant," in both places in which they occur, the words "under-tenant or Mundari khunt-kattidar" shall be substituted.

Amendment of
section 88.

30. (1) In section 88 of the said Act, before the word "raiyat," in both places in which it occurs, the word "non-occupancy" shall be inserted.

(2) In the same section, for the word "fifteen" the word "thirty" shall be substituted.

(3) In the same section, before the word "decree," where it last occurs, the word "final" shall be inserted.

(4) To the same section the following shall be added, namely:—

[Printed *ante*, p. 385.]

Amendment
of section 103.

31. In section 103 of the said Act, for the word "judgment," where it first occurs, the words "decree or order" shall be substituted.

Amendment
of section 104.

32. In section 104 of the said Act, for the word "judgment" the words "decree or order" shall be substituted.

Amendment
of section
105.

33. For section 105 of the said Act the following shall be substituted, namely:—

105. [Printed *ante*, p. 388.]

Amendment
of section
123.

34. (1) For the first sentence of section 123 of the said Act the following shall be substituted, namely:—

[Printed *ante*, p. 392.]

of 1903.]

TENANCY (AMENDMENT) ACT, 1903.

(Part II.—Amendment of the Chota Nagpur Landlord and Tenant Procedure Act.—Secs. 35-41.)

(2) In the last sentence of the said section, for the words "an under-tenure" the words "the tenure or holding" shall be substituted.

Ben. Act 1 of 1879.

35. Section 124 of the said Chota Nagpur Landlord and Tenant Procedure Act is repealed.

Repeal of section 124.

36. (1) In section 125 of the said Act, for the words and figures "any such under-tenure as is mentioned in section 123, or of the right and title of any person in an under-tenure of the nature described in section 124," the words "any tenure or holding" shall be substituted.

Amendment of section 125.

(2) In the same section, for the words "such under-tenure" the words "such tenure or holding" shall be substituted.

(3) Before the proviso in the same section the following shall be inserted, namely:—

[Printed *ante*, p. 393.]

(4) Before the words "that no transfer" in the same section, the word "also" shall be inserted.

(5) In the same section, for the words "an under-tenure" the words "a tenure" shall be substituted.

37. The words and figures "if of the nature described in section 123 and not of the nature described in section 124" in section 127 of the said Act, and the words "of a saleable under-tenure or of a tenure the right and title in which is saleable" in section 128 of the said Act,

Partial repeal of sections 127 and 128.

are repealed.

38. After section 130 of the said Act the following shall be inserted, namely:—

Insertion of new section, 130A.

130A. [Printed *ante*, p. 394.]

Ben. Act 1 of 1879.

39. In section 133 of the said Chota Nagpur Landlord and Tenant Procedure Act, after the words "a Deputy Commissioner" the words "by general or special order" shall be inserted.

Amendment of section 133.

40. In section 134 of the said Act, after the word "duties" the words "and the exercise of their powers" shall be inserted.

Amendment of section 134.

41. (1) In section 135 of the said Act, before the words "shall be appealable to the Commissioner," the words and figures "and not being orders passed under section 119, section 120 or section 130" shall be inserted.

Amendment of section 135.

(2) At the end of the same section the following shall be added, namely:—

[Printed *ante*, p. 396.]

THE CHOTA NAGPUR TENANCY (AMENDMENT) [Ben. Act 5 of 1903.]
ACT, 1903.

(Part II.—Amendment of the Chota Nagpur Landlord and Tenant Procedure Act.—Part III.—Amendment of the Chota Nagpur Commutation Act, 1897.—Secs. 42-51.)

Amendment
of sections
136 and 140.
Repeal of
section 138.
Addition to
section 144.

42. In sections 136 and 140 of the said Act, for the word "fifteen," wherever it occurs, the word "thirty" shall be substituted.

43. Section 138 of the said Act is repealed.

44. To section 144 of the said Act the following shall be added, namely :—

[Printed *ante*, p. 398.]

Insertion of
new section,
144A.

45. After section 144 of the said Act the following shall be inserted, namely :—

144A. [Printed *ante*, p. 398.]

Insertion of
new section,
145A.

46. After section 145 of the said Act the following shall be inserted, namely :—

145A. [Printed *ante*, p. 398.]

Insertion of
new sections,
151 to 164.

47. After section 150 of the said Act the following shall be added, namely :—

Further provisions as to Mundari khunt-kattidars.

151 to 164. [Printed *ante*, pp. 400 to 405.]

Amendment
of Sched-
ule C.

48. In Schedule C to the said Chota Nagpur Landlord and Tenant Procedure Act, after the word "suit" the words "[or, as the case may be, make an application]" shall be inserted. Ben. Act 1 of 1879.

PART III.—AMENDMENT OF THE CHOTA NAGPUR COMMUTATION ACT, 1897.

Amendment
of proviso to
section 4 (3)
of Bengal
Act 4 of
1897.

49. For the proviso to sub-section (3) of section 4 of the Chota Nagpur Commutation Act, 1897, the following shall be substituted, namely :— Ben. Act 4 of 1897.

[Printed *ante*, p. 412.]

Insertion of
new section,
9A.

50. After section 9 of the said Act the following shall be inserted, namely :—

9A. [Printed *ante*, p. 414.]

Insertion of
new section,
12A.

51. After section 12 of the said Chota Nagpur Commutation Act, 1897, the following shall be inserted, namely :— Ben. Act 4 of 1879.

12A. [Printed *ante*, p. 417.]

LAND-REVENUE.

Reg. 1 of 1793	.	.	.	the Bengal Permanent Settlement Regulation, 1793	.	page 431
Reg. 2 of 1793	.	.	.	the Bengal Land-revenue Regulation, 1793	.	„ 443
Reg. 8 of 1793	.	.	.	the Bengal Decennial Settlement Regulation, 1793	.	„ 456
Reg. 19 of 1793	.	.	.	the Bengal Revenue-free Lands (Non-Bádsháhi Grants) Regulation, 1793	.	„ 468
Reg. 37 of 1793	.	.	.	the Bengal Revenue-free Lands (Bádsháhi Grants) Regulation, 1793	.	„ 485
Reg. 8 of 1800	.	.	.	the Bengal Revenue-free Lands Regulation, 1800	.	„ 494
Reg. 1 of 1801	.	.	.	the Bengal Land-revenue Assessment Regulation, 1801	.	„ 496
Reg. 12 of 1805	.	.	.	the Cuttack Land-revenue Regulation, 1805	.	„ 502
Reg. 5 of 1812	.	.	.	the Bengal Land-revenue Sales Regulation, 1812	.	„ 518
Reg. 2 of 1819	.	.	.	the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819	.	„ 518
Reg. 4 of 1821	.	.	.	the Bengal Land-revenue (Assistant Collectors) Regulation, 1821	.	„ 533
Reg. 7 of 1822	.	.	.	the Bengal Land-revenue Settlement Regulation, 1822	.	„ 539
Reg. 11 of 1822	.	.	.	the Bengal Government Indemnity Regulation, 1822	.	„ 574
Reg. 9 of 1825	.	.	.	the Bengal Land-revenue Settlement Regulation, 1825	.	„ 576
Reg. 13 of 1825	.	.	.	the Bengal Land-revenue Settlement (Resumed Kanungos and Revenue-free Lands) Regulation, 1825	.	„ 585
Reg. 14 of 1825	.	.	.	the Bengal Revenue-free Lands Regulation, 1825	.	„ 589
Reg. 3 of 1828	.	.	.	the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1828	.	„ 596

Reg. 4 of 1828	.	.	.	the Bengal Land-revenue Settlement Regulation, 1828.	page 603
Reg. 9 of 1833	.	.	.	the Bengal Land-revenue (Settlement and Deputy Collectors) Regulation, 1833	„ 605
Act 12 of 1841	.	.	.	the Bengal Land-revenue Sales Act, 1841	„ 609
Act 20 of 1848	.	.	.	the Bengal Landholders' Attendance Act, 1848	„ 610
Ben. Act 7 of 1862	.	.	.	the Bengal Land-revenue Resumption Act, 1862	„ 612
Ben. Act 3 of 1868	.	.	.	the Bengal Land-revenue Settlement Act, 1868	„ 614

CALCUTTA—

Act 23 of 1850	.	.	.	the Calcutta Land-revenue Act, 1850	„ 615
Act 18. of 1856	.	.	.	the Calcutta Land-revenue Act, 1856	„ 618

FURTHER ENACTMENTS.

For further Enactments relating to the Land-revenue, *see* the following heads, namely :—

Board of Revenue	.	.	.	.	in Vol. I, page 74
Commissioners of Divisions	.	.	.	.	„ „ I, „ 180
Districts	.	.	.	.	„ „ I, „ 342
Ghatwali Lands	.	.	.	.	„ „ I, „ 567
Kanungos and Patwaris	.	.	.	.	„ „ II, „ 111
Public officers	.	.	.	.	„ „ IV, and
Recovery of Public Demands.	.	.	.	.	„ „ IV ;

also the Enactments noted in the following table :—

List of Enactments.

1	2	3	4	5
No. and year.	Short title.	Sections.	Where published.	Abstract.
Reg. 18 of 1812.	The Bengal Leases and Land-revenue Regulation, 1812.	3 (2).	<i>Ante</i> , p. 153.	Apportionment of assessment on division of joint estate.
Reg. 11 of 1825.	The Bengal Alluvion and Diluvion Regulation, 1825.	4 (1).	Vol. I of this Code, p. 56.	No exemption from land-revenue when land gained by gradual accretion.
Act 9 of 1847.	The Bengal Alluvion and Diluvion Act, 1847.	1, 5, 6, 9.	Ditto, pp. 59 to 61.	Alteration of assessment when land lost or gained by diluvion or alluvion.
Act 31 of 1858.	The Bengal Alluvial Land Settlement Act, 1858.	1, 2.	Ditto, p. 62.	Addition of revenue assessed upon alluvial land to jama of original estate; separate settlement of alluvial land when to be made; saving of rights of under-tenants.
Reg. 3 of 1872.	The Sonthal Parganas Settlement Regulation.	5, 9 to 17, 23 to 26.	Ditto, pp. 295 to 301.	Settlement of land-revenue in Sonthal Parganas.
Act 14 of 1882.	The Code of Civil Procedure.	4A.	Genl. Acts, 1882-1884, Ed. 1898, p. 265.	Power to modify the Code in its application to Revenue Courts.
Act 19 of 1883.	The Land Improvement Loans Act, 1883.	11.	Ditto, p. 662.	Exemption from land-revenue of improvements made with aid of loan granted by Government.
Ben. Act 5 of 1897.	The Estates Partition Act, 1897.	Ch. III.	Vol. IV of this Code.	Security of the land-revenue on partition of estate.
Reg. 1 of 1900.	The Chittagong Hill-tracts Regulation, 1900.	18 (f), (l).	Vol. I of this Code, p. 286.	Power to make rules as to land-revenue.

RULES AND ORDERS.

As to the settlement of land-revenue, *see* the Survey and Settlement Manual, 1900.

For rules for the collection of, and accounting for, land-revenue, *see* the Tausi Manual, 1899.

For rules as to Malikana payments, *see* the Board's Rules, 1902, pp. 151 to 157.

When lands are granted revenue-free, a condition of resumption in case of misconduct is to be inserted in the title-deed—*see* the Board's Rules, 1902, p. 226, para. 17.

As to the assignment or alienation of land-revenue in temporarily settled estates or Government estates, *see* the Government Estates Manual, pp. 54 to 60.

For orders as to the preparation of annual land-revenue reports by Commissioners of Divisions, *see* the Register and Return Manual, 1902, pp. 35 to 48.

As to the inspection of work connected with the land-revenue, *see* the Inspection Manual, 1902, pp. 38 *et seq.*

As to the inspection of work connected with settlements, *see* *ibid.*, pp. 35 to 38.

As to the inspection of work connected with Malikana, *see* *ibid.* pp. 20 and 21 to 23.

For further notes as to rules and orders, *see* *post*, pp. 447, 518, 533, 573, 576, 577, 608 and 610.

'THE BENGAL PERMANENT SETTLEMENT
REGULATION, 1793

(REGULATION 1 OF 1793)

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[1] This Table has been newly added.

of 1793.]

SETTLEMENT REGULATION, 1793.

THE BENGAL PERMANENT SETTLEMENT REGULATION, 1793 [1]

(REGULATION 1 of 1793).

[1st May, 1793.]

A Regulation for enacting into a Regulation certain Articles of a Proclamation bearing date the 22nd March, 1793.

1. The following articles of the proclamation relative to the limitation of the public demand upon the lands, addressed by the Governor General in Council to the zamindars, independent talukdars and other actual proprietors of land paying revenue to Government, in the Provinces of Bengal, Bihâr and Orissa, are hereby enacted into a Regulation, which is to have force and effect from the 22nd March, 1793, the date of the proclamation.

PROCLAMATION.

2. Art. I.—In the original Regulations for the decennial settlement of the public revenues of Bengal, Bihâr and Orissa, passed for those Provinces respectively on the 18th September, 1789, the 25th November, 1789, and the 10th February, 1790, it was notified to the proprietors of land, with or on behalf of whom a settlement might be concluded, that the jama assessed upon their lands under those Regulations would be continued after the expiration of the ten years, and remain unalterable for ever, provided such continuance should meet with the approbation of the Honourable Court of Directors for the affairs of the East India Company, and not otherwise.

Decennial settlement declared conditionally permanent by original Regulations.

3. Art. II.—The Marquis Cornwallis, Knight of the Most Noble Order of the Garter, Governor General in Council, now notifies to all zamindars, independent talukdars and other actual proprietors of land paying revenue to Government, in the provinces of Bengal, Bihâr and Orissa, that he has been empowered by the Honourable Court of Directors for the affairs of the East

Power to declare jama assessed upon lands under those Regulations, fixed for ever.

[1] SHORT TITLE.—This short title was given by the Amending Act, 1897 (5 of 1897).

LOCAL EXTENT.—This Regulation was passed for the whole of Bengal—see ss. 1 to 3.

It has been declared by the Laws Local Extent Act, 1874 (15 of 1874), section 6 (printed, General Acts, 1868-76, Ed. 1893, p. 484), to be in force throughout Bengal, except as regards the Scheduled Districts.

The Regulation has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), section 3, to be in force in the following Scheduled Districts, namely:—

~~West Jyrisiguri, in the Jalpaiguri District—see Vol. V, Pt. V B (c), and~~
the Hazaribagh and Manbhum Districts and Pargana Dhalb
in the Chota Nagpur Division—see ~~Vol. VI, Pt. VI B (c),~~ the Singhbhum District,
~~Vol. VI, Pt. VI B (c),~~

The Regulation is in force in the Sonthal Parganas—see V, Pt. VI B (c), but its application in the other de-regulationised tracts in Bengal is barred as follows, namely:—
in the Angul District, by the Angul District Regulation, (1 of 1894), section 3 (2), printed in Vol. I, p. 257, and
in the Chittagong Hill tracts, by the Chittagong Hill tracts

section 4 (2), printed in Vol. I, page 282.
in 1860 (1 of 1860),

India Company to declare the jama, which has been or may be assessed upon their lands under the Regulations above-mentioned, fixed for ever.

Jama assessed upon lands of proprietors with whom settlement concluded, fixed for ever.

4. Art. III.—The Governor General in Council accordingly declares to the zamindars, independent talukdars and other actual proprietors of land, with or on behalf of whom a settlement has been concluded under the Regulations above-mentioned, that at the expiration of the term of the settlement no alteration will be made in the assessment which they have respectively engaged to pay, but that they, and their heirs and lawful successors, will be allowed to hold their estates at such assessment for ever.

Jama hereafter agreed to by proprietors whose lands are held khas, or let in farm, fixed for ever.

5. Art. IV.—The lands of some zamindars, independent talukdars and other actual proprietors of land, having been held khas, or let in farm, in consequence of their refusing to pay the assessment required of them under the Regulations above-mentioned, the Governor General in Council now notifies to the zamindars, independent talukdars and other actual proprietors of land whose lands are held khas that they shall be restored to the management of their lands, upon their agreeing to the payment of the assessment which has been or may be required of them, in conformity to the Regulations above-mentioned, and that no alteration shall afterwards be made in that assessment, but that they, and their heirs and lawful successors, shall be permitted to hold their respective estates at such assessment for ever :

and he declares to the zamindars, independent talukdars and other actual proprietors of land, whose lands have been let in farm, that they shall not regain possession of their lands before the expiration of the period for which they have been farmed (unless the farmers shall voluntarily consent to make over to them the remaining term of their lease, and the Governor General in Council shall approve of the transfer), but that at the expiration of that period, upon their agreeing to the payment of the assessment which may be required of them, they shall be re-instated, and that no alteration shall afterwards be made in that assessment, but that they, and their heirs and lawful successors, shall be allowed to hold their respective estates at such assessment for ever.

Jama of lands belonging to Government, but transferred to individuals, fixed for ever. Assessment in former times liable to

6. Art. V.—In the event of the proprietary right in lands that are, or may become, the property of Government being transferred to individuals, such individuals, and their heirs and lawful successors, shall be permitted to hold the lands at the assessment at which they may be transferred for ever.

7. Art. VI.—It is well known to the zamindars, independent talukdars and other actual proprietors of land, as well as to the inhabitants of Bengal,

of 1793.]

SETTLEMENT REGULATION, 1793.

(Sec. 7.)

Bihâr and Orissa, in general, that from the earliest times until the present period the public assessment upon the land has never been fixed, but that, according to established usage and custom, the rulers of these provinces have from time to time demanded an increase of assessment from the proprietors of land; and that, for the purpose of obtaining this increase, not only frequent investigations have been made to ascertain the actual produce of their estates, but that it has been the practice to deprive them of the management of their lands, and either to let them in farm, or to appoint officers on the part of Government to collect the assessment immediately from the raiyats.

variation at discretion of Government.

The Honourable Court of Directors, considering these usages and measures to be detrimental to the prosperity of the country, have, with a view to promote the future ease and happiness of the people, authorized the foregoing declarations; and the zamindars, independent talukdars and other actual proprietors of land, with or on behalf of whom a settlement has been or may be concluded, are to consider these orders fixing the amount of the assessment as irrevocable, and not liable to alteration by any persons whom the Court of Directors may hereafter appoint to the administration of their affairs in this country.

Motives of Court of Directors for abolishing usage and fixing assessment.

The Governor General in Council trusts that the proprietors of land, sensible of the benefits conferred upon them by the public assessment being fixed for ever, will exert themselves in the cultivation of their lands, under the certainty that they will enjoy exclusively the fruits of their own good management and industry, and that no demand will ever be made upon them, or their heirs or successors, by the present or any future Government, for an augmentation of the public assessment in consequence of the improvement of their respective estates.

Proprietors expected to improve estates.

To discharge the revenues at the stipulated periods without delay or evasion and to conduct themselves with good faith and moderation towards their dependent talukdars and raiyats, are duties at all times indispensably required from the proprietors of land, and a strict observance of those duties is now more than ever incumbent upon them, in return for the benefits which they will themselves derive from the orders now issued.

Conduct to be observed by proprietors towards dependent talukdars and raiyats.

The Governor General in Council therefore expects that the proprietors of land will not only act in this manner themselves towards their dependent talukdars and raiyats, but also enjoin the strict adherence to the same principles in the persons whom they may appoint to collect the rents from them.

He further expects that, without deviating from this line of conduct, they

No claims for

LAND-REVENUE.
THE BENGAL PERMANENT
 (Sec. 8.)

[Reg. 1

remissions or
suspensions.

will regularly discharge the revenue in all seasons ; and he accordingly notifies to them, that, in future, no claims or applications for suspensions or remissions, on account of drought, inundation or other calamity of season, will be attended to, but that in the event of any zamindar, independent talukdar or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded, or his or her heirs or successors, failing in the punctual discharge of the public revenue which has been or may be assessed upon their lands under the above-mentioned Regulations, a sale of the whole of the lands of the defaulter, or such portion of them as may be sufficient to make good the arrear, will positively and invariably take place.

Sale of lands
for arrears.

[1] 8. Art. VII.—To prevent any misconstruction of the foregoing articles the Governor General in Council thinks it necessary to make the following declarations to the zamindars, independent talukdars and other actual proprietors of land.

ations
for protection
of raiyats, &c.

First.—It being the duty of the ruling power to protect all classes of people and more particularly those who from their situation are most helpless, the Governor General in Council will, whenever he may deem it proper, enact such Regulations as he may think necessary for the protection and welfare of the dependent talukdars, raiyats and other cultivators of the soil ; and no zamindar, independent talukdar or other actual proprietor of land shall be entitled on this account to make any objection to the discharge of the fixed assessment which they have respectively agreed to pay.

Right of
Government
to all internal
duties,

Second.—The Governor General in Council having, on the 28th July, 1790, directed the *sair* collections to be abolished, a full compensation was granted to the proprietors of land for the loss of revenue sustained by them in consequence of this abolition ; and he now declares that, if he should hereafter think it proper to re-establish the *sair* collections or any other internal duties, and to appoint officers on the part of Government to collect them, no proprietor of land will be admitted to any participation thereof, or be entitled to make any claims for remissions of assessment on that account.

to jama
ted

Third.—The Governor General in Council will impose such assessment as he may deem equitable on all lands at present alienated and paying no public revenue which have been or may be proved to be held under illegal or invalid titles.

The assessment to imposed will belong to Government and no proprietor of land will be entitled to any part of it.

[1] For a restriction upon section 8, see the Bengal Revenue-*land* Lands (Non-Badshahi Grants) Regulation, 1798 (19 of 1798), s. 6, *post*, p. 476.

of 1793.]

SETTLEMENT REGULATION, 1793.

(S. C. 8.)

Fourth.—The jama of those zamindars, independent talukdars and other actual proprietors of land, which is declared fixed in the foregoing articles, is to be considered entirely unconnected with, and exclusive of, any allowances which have been made to them in the adjustment of their jama, for keeping up thanas or police establishments, and also of the produce of any lands which they may have been permitted to appropriate for the same purpose, and the Governor General in Council reserves to himself the option of resuming the whole or part of such allowances, or produce of such lands, according as he may think proper in consequence of his having exonerated the proprietors of land from the charge of keeping the peace, and appointed officers on the part of Government to superintend the police of the country.

Resumption
of police
allowances to
proprietors.

The Governor General in Council, however, declares that the allowances or produce of lands which may be resumed will be appropriated to no other purpose but that of defraying the expense of the police; and that instructions will be sent to the Collectors not to add such allowances, or the produce of such lands, to the jama of the proprietors of land, but to collect the amount from them separately.

Fifth.—Nothing contained in this proclamation shall be construed to render the lands of the several descriptions of disqualified proprietors, specified in the first Article of the Regulations regarding disqualified landholders, passed on the 15th July, 1791, liable to sale for any arrears [1] which have accrued or may accrue on the fixed jama that has been or may be assessed upon their lands under the above-mentioned Regulations for the decennial settlement: provided that such arrears have accrued or may accrue during the time that they have been or may be dispossessed of the management of their lands under the said Regulations of the 15th July, 1791.

Estates of dis-
qualified pro-
prietors not
liable to sale
for arrears.

It is to be understood, however, that whenever all or any of the descriptions of disqualified landholders, specified in the first Article of the last-mentioned Regulations, shall be permitted to assume or retain the management of their lands, in consequence of the ground of their disqualification no longer existing, or of the Governor General in Council dispensing with, altering or abolishing those Regulations, the lands of such proprietors will be held responsible for the payment of the fixed jama that has been or may be assessed thereon, from the time that the management may devolve upon them, in the same manner as the lands of all actual proprietors of land who are declared

[1] But see the Court of Wards Act, 1879 (Act 9 of 1879), s. 23A (in Vol. I of this Code, p. 323), which authorizes the sale of estates, for arrears of revenue which have accrued while the estates were under the charge of the Court of Wards.

LAND-REVENUE.
THE BENGAL PERMANENT
(Secs. 9, 10.)

[Reg. 1

qualified for the management of their estates, and also of all actual proprietors who are unqualified for such management, by natural or other disabilities, but do not come within the descriptions of disqualified landholders specified in the first Article of the Regulations of the 15th July, 1791, are and will be held answerable, for any arrears that are or may become due from them, on the fixed jama which they, or any persons on their behalf, have engaged or may engage to pay, under the above-mentioned Regulations, for the decennial settlement.

Proprietors
may transfer
lands without
sanction of
Government.

9. Art. VIII.—That no doubt may be entertained whether proprietors of land are entitled, under the existing Regulations, to dispose of their estates without the previous sanction of Government, the Governor General in Council notifies to the zamindars, independent talukdars and other actual proprietors of land that they are privileged to transfer to whomsoever they may think proper, by sale, gift or otherwise, their proprietary rights in the whole or any portion of their respective estates, without applying to Government for its sanction to the transfer, and that all such transfers will be held valid :

Provide.

Provided that they be conformable to the Muhammadan or the Hindu laws (according as the religious persuasions of the parties to each transaction may render the validity of it determinable by the former or the latter Code), and that they be not repugnant to any Regulations now in force, which have been passed by the British administrations, or to any Regulations that they may hereafter enact.

Rules for
apportioning
fixed jama on
portions of
estates in
event of sale
or transfer,
and on shares
of estates.

[1] 10. Art. IX.—From the limitation of the public demand upon the lands, the net income, and consequently the value (independent of increase of rent obtainable by improvements), of any landed property, for the assessment on which a distinct engagement has been or may be entered into, between Government and the proprietor, or that may be separately assessed, although included in one engagement with other estates belonging to the same proprietor, and which may be offered for public or private sale entire, will always be ascertainable by a comparison of the amount of the fixed jama assessed upon it (which, agreeable to the foregoing declarations, is to remain unalterable for ever, to whomsoever the property may be transferred), with the whole of its produce, allowing for the charges of management.

[1] 8. 10 is supplemented by the Bengal Land-revenue Act s. 8, *post*, p. 496; and its application is extended by—
the Bengal Inheritance Regulation, 1793 (11 of 14
this Code, and
the Bengal Leases and Land-revenue Regulation, 18
ante, p. 158.

Regulation, 1801 (1 of 1801),

s. 4, printed in Vol. IV of
(18 of 1812), s. 3 (2), printed

So much of s. 10 of the present Regulation as relates to
jama on lands exposed to public sale in satisfaction of decrees,

adjustment of the Government
ed by Act 4 of 1846, s. 1.

of 1793.]

SETTLEMENT REGULATION, 1793.

(Sec. 10.)

But it is also essential that a notification should be made of the principles upon which the fixed assessment charged upon any such estate will be apportioned on the several divisions of it, in the event of the whole of it being transferred by public or private sale, or otherwise, in two or more lots, or of a portion of it being transferred in one, or in two or more lots, or of its being joint property, and a division of it being made amongst the proprietors; otherwise, from the want of a declared rule for estimating the proportion of the fixed jama with which the several shares would be chargeable in such cases, the real value of each share would be uncertain, and consequently the benefits expected to result from fixing the public assessment upon the lands would be but partially obtained.

The Governor General in Council accordingly prescribed the following rules for apportioning the fixed assessment in the several cases above-mentioned; but as Government might sustain a considerable loss of revenue by disproportionate allotments of the assessment, were the apportioning of it, in any of the cases above specified, to be left to the proprietors, he requires that all such transfers or divisions as may be made by the private act of the parties themselves be notified to the Collector of the revenue of the zila in which the lands may be situated, or such other officer as Government may in future prescribe, in order that the fixed jama, assessed upon the whole estate, may be apportioned on the several shares in the manner hereafter directed, and that the names of the proprietors of each share and the jama charged thereon may be entered upon the public registers, and that separate engagements for the payment of the jama assessed upon each share may be executed by the proprietors, who will thenceforward be considered as actual proprietors of land.

And the Governor General in Council declares that, if the parties to such transfers or divisions shall omit to notify them to the Collector of the revenue of the zila or such other officer as may be hereafter prescribed, for the purposes before-mentioned, the whole of such estate will be held responsible to Government for the discharge of the fixed jama assessed upon it, in the same manner as if no such transfer or division had ever taken place.

The Governor General in Council thinks it necessary further to notify, in elucidation of the declarations contained in this Article (which are conformable to the principles of the existing Regulations), that if any zamindar, independent talukdar or other actual proprietor of land shall dispose of a portion of his or her lands as a dependent taluk, the jama which may be stipulated to be paid by the dependent talukdar will not be entered upon the records of

Government, nor will the transfer exempt such lands from being answerable, in common with the remainder of the estate, for the payment of the public revenue assessed upon the whole of it, in the event of the proprietor, or his or her heirs or successors, falling in arrear from any cause whatever, nor will it be allowed, in any case, to affect the rights or claims of Government, any more than if it had never taken place.

First.—In the event of the whole of the lands of a zamindar, independent talukdar or other actual proprietor of land, with or on behalf of whom a settlement has been, or may be concluded, under the Regulations above mentioned, being exposed to public sale by the order of the Governor General in Council, for the discharge of arrears of assessment, or in consequence of the decision of a Court of Justice, in two or more lots, the assessment upon each lot shall be fixed at an amount which shall bear the same proportion to its actual produce^[1] as the fixed assessment upon the whole of the lands sold may bear to the whole of their actual produce.^[1]

This produce shall be ascertained in the mode that is or may be prescribed by the existing Regulations, or such other Regulations as the Governor General in Council may hereafter adopt, and the purchaser or purchasers of such lands, and his or her or their heirs and lawful successors, shall hold them at the jama at which they may be so purchased, for ever.

Second.—When a portion of the lands of a zamindar, independent talukdar or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded, under the Regulations before-mentioned, shall be exposed to public sale, by order of the Governor General in Council, for the liquidation of arrears of assessment, or pursuant to the decision of a Court of Justice, the assessment upon such lands, if disposed of in one lot, shall be fixed at an amount which shall bear the same proportion to their actual produce as the fixed assessment upon the whole of the lands of such proprietor, including those disposed of, may bear to the whole of their actual produce. ^[1]

If the lands sold shall be disposed of in two or more lots, the assessment upon each lot shall be fixed at an amount which shall bear the same proportion to its actual produce ^[1] as the fixed assessment upon the whole of the lands of such proprietor, including those sold, may bear to the whole of their actual produce.^[1]

The actual produce ^[1] of the whole of the lands of such proprietor, whether the portion of them which may be sold be disposed of in one or in two or more

^[1] As to the meaning of "actual produce," see the Bengal Land-revenue Assessment Regulation, 1801 (1 of 1801), s. 8, *post*, p. 493.

of 1793.]

SETTLEMENT REGULATION, 1793.

(Sec. 10.)

lots, shall be ascertained in the mode that is or may be prescribed by the existing Regulations, or such other regulations as the Governor General in Council may hereafter enact, and the purchaser or purchasers of such lands, and his or her or their heirs or successors, will be allowed to hold them at the jama at which they may be so purchased for ever; and the remainder of the public jama, which will consequently be payable by the former proprietor of the whole estate, on account of the portion of it that may be left in his or her possession, will continue unalterable for ever.

Third.—When a zamindar, independent talukdar or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded, shall transfer the whole of his or her estate, in two or more distinct portions, to two or more persons or a portion thereof to one person, or to two or more persons in joint property, by private sale, gift or otherwise, the assessment upon each distinct portion of such estate so transferred shall be fixed at an amount which shall bear the same proportion to its actual produce [1] as the assessment upon the whole of the estate of the transferring proprietor, of which the whole or a portion may be so transferred, may bear to the whole of its actual produce. [1]

This produce shall be ascertained in the mode that is or may be prescribed in the existing Regulations, or such other Regulations as Government may hereafter adopt, and the person or persons to whom such lands may be transferred, and his or her or their heirs and lawful successors, shall hold them at the jama at which they may be so transferred, for ever: and where only a portion of such estate shall be transferred, the remainder of the public jama which will consequently be payable by the former proprietor of the whole estates on account of the lands that may remain in his or her possession shall be continued unalterable for ever.

Fourth.—Whenever a division shall be made of lands, the settlement of which has been or may be concluded with or on behalf of the proprietor or proprietors, and that are or may become the joint property of two or more persons, the assessment upon each share shall be fixed at an amount which shall bear the same proportion to its actual produce as the fixed jama assessed upon the whole of the estate divided may bear to the whole of its actual produce.

This produce shall be ascertained in the mode that is or may be prescribed by the existing Regulations or such other Regulations as the Governor

[1] As to the meaning of "actual produce," see the Bengal Land-revenue Assessment Regulation, 1801 (1 of 1801), s. 8, *post*, p. 496.

THE BENGAL PERMANENT SETTLEMENT REGULATION, [Reg. 1 of 1793.]

1793.

cc. 11.)

General in Council may hereafter adopt, and the sharers, and their heirs and lawful successors, shall hold their respective shares at the jama which may be so assessed upon them, for ever.

Adjusting
jama of
lands held
khas or let
in farm.

[1] 11. Art. X.—The following rules are prescribed respecting the adjustment of the assessment on the lands of zamindars, independent talukdars and other actual proprietors of land, whose lands are or may be held khas or let in farm, in the event of their being disposed of by public sale, or transferred, by any private act of the proprietor, or of their being joint property, and a division of them taking place amongst the proprietors.

First.—If the whole, or a portion of the lands of a zamindar, independent talukdar or other actual proprietor of land who may not have agreed to the payment of the assessment proposed to him or her under the Regulations above-mentioned, and whose lands are or may be held khas or let in farm, shall be exposed to public sale, in one or in two or more lots (pursuant to the decree of a Court of Justice), such lands, if sold, shall be disposed of at whatever assessment the Governor General in Council may deem equitable, and the purchaser or purchasers of such lands, and his or her or their heirs and lawful successors, shall hold the lands at the assessment at which they may be so purchased, for ever.

If the lands, at the time of their being exposed to sale, shall be held in farm, and shall be put up in one or in two or more lots, they shall be disposed of under the following conditions :

The purchaser or purchasers shall receive, during the unexpired part of the term of the lease of the farmer, whatever such proprietor shall have been entitled to receive, in virtue of his or her proprietary rights, on account of the land so purchased, and such purchaser or purchasers shall engage to pay, at the expiration of the lease of the farmer, such assessment on account of the lands as Government may deem equitable.

The sum to be received by the purchaser or purchasers during the unexpired part of the term of the lease of the farmer, and the jama to be paid by such purchaser or purchasers after the expiration of the lease, shall be specified at the time of the sale, and such purchaser or purchasers, and his or her or their heirs and lawful successors, shall be allowed to hold the lands at the assessment at which they may be so sold, for ever.

[1] The application of s. 11 is extended by the Inheritance Regulation, 1793 (11 of 1793), s. 4, printed in Vol. IV of this Code.

So much of s. 11 as relates to the adjustment of the assessment on lands exposed to public sale in satisfaction of decrees was repealed by Act 4 of 1843, s. 1.

[Reg. 1 of 1793.] THE BENGAL PERMANENT SETTLEMENT REGULATION, 1793.

(Sec. 11.)

[Reg. 2 of 1793.] THE BENGAL LAND-REVENUE REGULATION, 1793.

Second.—If a zamindar, independent talukdar or other actual proprietor of land, whose lands are or may be held khas or let in farm, shall transfer by private sale, gift or otherwise the whole or a portion of his or her lands in one or in two or more lots, the person or persons to whom the lands may be so transferred shall be entitled to receive from Government (if the lands are held khas), or from the farmer (if the lands are let in farm), the *málíkána* to which the former proprietor was entitled on account of the land so transferred.

Persons to whom such lands may be so transferred will stand in the same predicament as the zamindars, independent talukdars or other actual proprietors of land mentioned in the fourth Article, whose lands are held *khás*, or have been let in farm, in consequence of their refusing to pay the assessment required of them under the before-mentioned Regulations for the decennial settlement; and the declarations contained in that Article are to be held applicable to them.

Third.—In the event of a division being made of lands that are or may become the joint property of two or more persons, and which are or may be held *khás* or let in farm, the proprietors of the several shares will stand in the same predicament, with regard to their respective shares, as the zamindars, independent talukdars and other actual proprietors of land specified in the fourth Article, whose lands have been let in farm or are held *khas* in consequence of their having refused to pay the assessment required of them under the before-mentioned Regulations for the decennial settlement; and the declarations contained in that Article are to be considered applicable to them.

THE BENGAL LAND-REVENUE REGULATION, 1793 (REGULATION 2 OF 1793).

CONTENTS. [1]

SECTION.

1. Preamble.
2. [*Repealed.*]
3. Collectors of Revenue.

[1] This Table has been newly added.

SECTION.

4. Collectors subject to Board of Revenue.
5. Seals of Collectors.
6. Collectors to keep diary.
7. Duties of Collectors.
8. Nature of duties.
9. Native officers to obey orders of Collector.
10. Collectors not to employ private servants in public matters.
11. Appointment and removal of Native cash-keepers.
12. [*Repealed.*]
13. Appointment and removal of Native servants.
14. In absence of Collector, senior Assistant to officiate.
15. Collectors and their officers prohibited being concerned extra-officially in revenues.
16. *Bona fide* purchases of land at private sale by Collector's officers, etc.
17. [*Repealed.*]
18. Collectors and their Assistants prohibited from trading.
19. [*Repealed.*]
20. Collectors to keep records.
- 21-23. [*Repealed.*]
24. Collectors not to exercise authority beyond limits of their zilas without orders.
25. Rule with regard to receipts.
26. Register of receipts for salaries, etc.
- 27-32. [*Repealed.*]
33. In what cases Board may require personal attendance of Natives.
- 34-35. [*Repealed.*]
36. Powers of Board as to settlement of lands held *khás*.
37. Security for payment of revenue.
38. Remissions.
39. Settlements to be made by Collectors.
40. Procedure on settlement being concluded.
41. Collection of revenue.
42. Temporary suspensions.
43. Remissions of balances.
44. [*Repealed.*]
45. Duty of Board to furnish accounts, etc.
- 46-70. [*Repealed.*]

THE BENGAL LAND-REVENUE REGULATION, 1793 [1] 1913,
(REGULATION 2 of 1793).

[1st May, 1793.]

A Regulation for abolishing the Courts of Mál Adálat or Revenue Courts, and transferring the trial of the suits which were cognizable in those Courts to the Courts of Diwání Adálat; and prescribing Rules for the conduct of the Board of Revenue and the Collectors.

1. In the British territories in Bengal the greater part of the materials required for the numerous and valuable manufactures, and most of the other principal articles of export, are the produce of the lands: it follows that the commerce, and consequently the wealth of the country, must increase in proportion to the extension of its agriculture. Preamble.

But it is not for commercial purposes alone that the encouragement of agriculture is essential to the welfare of these Provinces.

The Hindus, who form the body of the people, are compelled, by the dictates of religion, to depend solely upon the produce of the lands for subsistence; and the generality of such of the lower orders of the Natives as are not of that persuasion are, from habit or necessity, in a similar predicament.

[1] SHORT TITLE.—This short title was given by the Amending Act, 1897 (5 of 1897).

LOCAL EXTENT.—This Regulation has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), section 6 (printed, General Acts, 1868-71, Ed. 1893, p. 485), to be in force throughout Bengal, except as regards the Scheduled Districts.

The Regulation has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), section 3, to be in force in the following Scheduled Districts, namely:—

the Hazaribagh, Ranchi, Palamau and Manbhum Districts, and Pargana Dhalbhum in the Singhbhum District, in the Chota Nagpur Division—see Vol. V, Part V B (b).

Sections 7 and 8 (10) are in force in the Angul District—see Vol. V, Part VI B (a); but the rest of the Regulation is barred in that district by Angul District Regulation, 1894 (1 of 1894), section 3 (2), printed in Vol. I, p. 267.

The application of the whole Regulation is in the other de-regulationised tracts in Bengal as follows, namely:—

in the Sonthal Parganas, by the Sonthal Parganas section 3 (2), as amended by the Sonthal Parganas Regulation, 1899 (3 of 1899), section 3, printed in Vol.

Settlement Regulation (3 of 1873), Parganas Justice and Laws Regulation, p. 294.

PARTIAL REPEAL.—So much of the Regulation as requires the appointment of dewan in the different districts, or defines the duties of the dewan, or relates in any other manner, directly or indirectly, to those offices, was repealed by Regulation 15 of 1813. Specific references in the Regulation to dewan were repealed by Repealing Act, 1874 (16 of 1874), and have been omitted—see foot-notes, post.

LAND-REVENUE.

THE BENGAL LAND-REVENUE

[Reg. 2

(Sec. 1.)

The extensive failure or destruction of the crops that occasionally arises from drought or inundation is in consequence invariably followed by famine, the ravages of which are felt chiefly by the cultivators of the soil and the manufacturers, from whose labours the country derives both its subsistence and wealth.

Experience having evinced that adequate supplies of grain are not obtainable in the country must necessarily continue subject to these calamities until the proprietors and cultivators of the lands shall have the means of increasing the number of the reservoirs, embankments and other artificial works, by which, to a great degree, the untimely cessation of the periodical rains may be provided against, and the lands protected from inundation; and as a necessary consequence the stock of grain in the country at large shall always be sufficient to supply those occasional, but less extensive, deficiencies in the annual produce which may be expected to occur notwithstanding the adoption of the above precautions to obviate them.

To effect these improvements in agriculture, which must necessarily be followed by the increase of every article of produce, has accordingly been one of the primary objects to which the attention of the British Administration has been directed in its arrangements for the internal government of these Provinces.

As being the two fundamental measures essential to the attainment of it, the property in the soil has been declared to be vested in the landholders, and the revenue payable to Government from each estate has been fixed for ever.

These measures have at once rendered the interest of the proprietors to improve their estates, and given them the means of raising the funds necessary for that purpose.

The property in the soil was never before formally declared to be vested in the landholders, nor were they allowed to transfer such rights as they did possess, or raise money upon the credit of their tenures, without the previous sanction of Government.

With respect to the public demand upon each estate, it was liable to annual or frequent variation at the discretion of Government.

The amount of it was fixed upon an estimate formed by the public officers of the aggregate of the rents payable by the raiyats or tenants for each bigha of land in cultivation, of which, after deducting the expenses of collection, ten-elevenths were usually considered as the right of the public and the remainder the share of the landholder.

of 1793.]

REGULATION, 1793.

(Sec. 1.)

Refusal to pay the sum required of him was followed by his removal from the management of his lands, and the public dues were either let in farm or collected by an officer of Government, and the above-mentioned share of the landholder, or such sum as special custom, or the orders of Government, might have fixed, was paid to him by the farmer or from the public treasury.

When the extension of cultivation was productive only of a heavier assessment, and even the possession of the property was uncertain, the hereditary landholder had little inducement to improve his estate, and moneyed men had no encouragement to embark their capital in the purchase or improvement of land, whilst not only the profit, but the security for the capital itself, was so precarious.

The same causes, therefore, which prevented the improvement of land depreciated its value.

Further measures, however, are essential to the attainment of the important object above stated.

All questions between Government and the landholders respecting the assessment and collection of the public revenue, and disputed claims between the latter and their raiyats, or other persons concerned in the collection of their rents, have hitherto been cognizable in the Courts of Mál Adálat or Revenue Courts.

The Collectors of the Revenue preside in these Courts as Judges, and an appeal lies from their decision to the Board of Revenue, and from the decrees of that Board to the Governor General in Council in the Department of Revenue.

The proprietors can never consider the privileges which have been conferred upon them as secure, whilst the Revenue-officers are vested with these judicial powers.

Exclusive of the objections arising to Courts from their irregular, summary, and often *ex parte* proceedings and from the Collectors being obliged to suspend the exercise of their judicial functions whenever they interfere with their financial duties, it is obvious that, if the Regulations for assessing and collecting the public revenue are infringed, the revenue-officers themselves must be the aggressors, and that individuals who have been wronged by them in one capacity can never hope to obtain redress from them in another.

Their financial occupations equally disqualify them for administering the laws between the proprietors of land and their tenants.

Other security, therefore, must be given to landed property and to the rights attached to it before the desired improvements in agriculture can be expected to be effected.

Government must divest itself of the power of infringing, in its executive capacity, the rights and privileges which, as exercising the legislative authority, it has conferred on the landholder

The revenue-officers must be deprived of their judicial powers. [1]

All financial claims of the public, when disputed under the Regulations, must be subjected to the cognizance of Courts of Judicature, superintended by Judges who, from their official situations and the nature of their trusts, shall not only be wholly uninterested in the result of their decisions, but bound to decide impartially between the public and the proprietors of land, and also between the latter and their tenants.

The Collectors of the Revenue must not only be divested of the power of deciding upon their own acts, but render themselves amenable for them to the Courts of Judicature, and collect the public dues subject to a personal prosecution for every exaction exceeding the amount which they are authorized to demand on behalf of the public, and for every deviation from the Regulations prescribed for the collection of it.

No power will then exist in the country by which the rights vested in the landholders by the Regulations can be infringed or the value of landed property affected.

Land must, in consequence, become the most desirable of all property, and the industry of the people will be directed to those improvements in agriculture which are as essential to their own welfare as to the prosperity of the State.

The following rules, being the rules passed for the guidance of the Collectors and the Board of Revenue, on the 8th June, 1787, and the 25th April, 1788, with alterations adapted to the principles above stated, have been accordingly enacted.

2. [*Abolition of Courts of Mál Adálat.*] *Rep. by the Repealing Act, 1873 (12 of 1873).*

Collectors of
Revenue.

3. The collection of the revenue payable to Government from the estates in each zila is to be committed, as heretofore, to a civil covenanted servant of

[1] This clause, and some of the preceding clauses of this preamble, are obsolete, in consequence of the repeal of parts of this Regulation by later enactments which are noted *post*.

of 1793.]

REGULATION, 1793.

(Secs. 4-8.)

the Company, who is to be styled Collector of the Revenue of the zila to which he may be appointed * * * [1].

4. The Collectors are to correspond with the Board of Revenue, and to conform to all instructions with which they have been furnished by that Board, and that are or may not be altered or revoked by this or any other Regulation

Collectors subject to Board of Revenue.

* * * [2], and also to all instructions which the Board of Revenue may hereafter transmit to them.

5. The Collectors of the several zilas are to use a circular seal one inch and a-half in diameter.

Seals of Collectors.

The seals of the Collectors in Bengal and Orissa are to bear an inscription to the following effect, in the Bengal and Persian characters and languages, and the seals of the Collectors in Bihar a similar inscription, in the Persian character and language, and the Hindustani language and Nagri character : "The seal of the Collector of the zila of...

6. The Collectors are to keep a regular diary of their official transactions, either in the English, Persian or Bengal language, recording and attesting them with their official signature at the time they may take place.

Collectors to keep diary.

7. The duties prescribed in the following section are to be performed by the Collectors[3], under the superintendence of the Board of Revenue.[4]

Duties of Collectors.

8. *First.*—To collect the amount of the fixed revenue assessed upon the lands of the zamindars, independent talukdars or other actual proprietors of land, with or on behalf of whom a settlement has been or may be concluded.

Nature of duties.

Second.—To collect the stipulated annual revenue from the farmers of estates let in farm.

Third.—To levy the rents and revenue from estates held khas.

Fourth.—To make the future settlement of khas, or farmed estates, agreeably to the regulations and instructions which they may receive for that purpose.

Fifth.—To prosecute for the recovery of the dues of Government from lands, of whatever description, held exempt from the payment of revenue under illegal or invalid tenures.

[1] The second sentence of s. 3, as to oaths, which was repealed by the Repealing Act, 1873 (12 of 1873), is omitted.

[2] The words and figures "published in the manner directed in Regulation 41, 1793," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[3] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 573.

As to the general powers of a Collector, see the Board's Rules, 1902, p. 27. As to his general duties, see *ib.*, pp. 55 to 58. As to his tours, see *ib.*, p. 58.

As to the inspection of offices by Collectors, see the Inspection Manual, 1902, pp. 1, 3, 4.

[4] As to the exercise of functions of the Board of Revenue by other authorities, see the references cited in the footnote on p. 75 of Vol. I.

Sixth.—To pay the pensions and allowances included in the public revenue and the pensions and compensations granted in consequence of the abolition of the *sáir*.

Seventh.—To execute the instructions which may be issued to them by the Court of Wards regarding disqualified landholders and their estates.

Eighth.—To superintend the division of landed property paying revenue to Government which may be ordered to be divided into two or more distinct estates.

Ninth.—To apportion the public revenue on lands ordered to be disposed of at public sale for the discharge of arrears of revenue.

Tenth.—To collect the tax on spirituous liquors and intoxicating drugs or articles.^[1]

Eleventh and Twelfth. [*To procure lands for native invalid soldiers; to collect the police tax.*] *Rep. by the Repealing Act, 1874 (16 of 1874).*

Thirteenth.—To perform the above, and all other duties, according to the rules that have been or may be prescribed to them * * * ^[2].

Fourteenth.—To transmit such annual, monthly or other accounts as they now furnish, or may be hereafter required to send by the Board of Revenue,^[3] or any officer under that Board empowered to require such accounts.

Fifteenth.—To conform to all special orders that have been or may be issued to them by the Board of Revenue,^[3] or by public officers empowered to issue such orders.

Native officers
to obey orders
of Collector.

9. * * ^[4] All Native officers under the Collector are to act agreeably to his orders and such rules as he may prescribe.

They are not to perform any act of authority without his sanction or authority, under pain of being fined in a sum not exceeding six months' salary, or of being dismissed from their offices by the Collector,^[5] the Board of Revenue^[3] or the Governor General in Council, and also of being sued in the Court of Judicature for damages by any person who may consider himself aggrieved by such unauthorised act.

Collectors not
to employ

10. The Collectors^[5] are prohibited from employing, directly or indirectly,

^[1] For the enactments relating to Excise in Bengal, see Vol. I, p. 486 *et seq.*

^[2] The words and figures "by any Regulation published in the manner directed in Regulation 41, 1793," which were repealed by the Repealing Act, 1876 (12 of 1876), are omitted.

^[3] As to the exercise of functions of the Board of Revenue by other authorities, see the references cited in the footnote on p. 75 of Vol. I.

^[4] The words "The *dewan*, and," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

^[5] As to the exercise of functions of Collectors by other officers, see Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 25, *post*, p. 573.

of 1793.]

REGULATION, 1793.

(Secs. 11-14.)

their private servants, whether baniyas or others, in the discharge of any part of their public duties, it being required that, in all matters relating to the trust committed to them, they act as the only empowered agents of Government.

private servants in public matters.

This prohibition, however, is not meant to restrict them from occasionally employing their assistants[1] or their inferior public servants in the cases and in the manner in which they are authorized to make use of their agency.

11. The khazanchi or native cash-keeper in each zila is to be nominated by the Collector,[2] who is to take good and sufficient security from him for the faithful discharge of his trust, and for making good all deficiencies in the public money that may be committed to his charge.

Appointment and removal of Native cash-keepers.

The Collector[2] is to transmit the names of the person whom he may nominate to the office of khazanchi, and his surety, with a copy of the engagement executed by the latter, to the Board of Revenue; [3] but the person so nominated shall not be considered as appointed until the Board of Revenue[3] shall have signified their approbation both of him and his surety.

The Native cash-keeper so appointed shall not be removed but for misconduct, or other sufficient cause, proved to the satisfaction of the Board of Revenue; [3] and he and the Collector[2] shall be held jointly and severally responsible to Government for the public money committed to their charge.

12. *[Form to be observed in issuing public money.] Rep. by Act 25 of 1854.*

13.[4] *[The appointment and dismissal of all Native public servants on the establishments of the collectorships (the keepers of the Native records and the khazanchi excepted) are vested in the Collectors.]*

Appointment and removal of Native servants.

But they are to transmit to the Board of Revenue[3] regular notice of all appointments and removals, and are to employ none but such public and registered officers in matters in any respect relating to their official duty, and are not, under any plea or pretext, to confer on their public officers any private trust relating to their personal concerns.

14. In the event of the death or removal of a Collector, or of his absence from his station, the senior Assistant on the spot is to perform the duties of senior

In absence of Collector, senior

[1] The words "or dewans", which were repealed by the Bengal Act, 1874 (16 of 1874), are omitted.

[2] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1823 (7 of 1823), s. 35, post, p. 573.

[3] As to the exercise of functions of the Board of Revenue, see the references cited in the foot-note on page 75 of Vol. I.

[4] The words printed in italics within square brackets were repealed by Ben. Reg. 5 of 1804, s. 2.

Act, 1874 (16 of 1874),

see the Bengal Land-revenue

by other authorities, see the

repealed by Ben. Reg. 5

Assistant to Collector [1] * * [2] and the public officers of the Collectorship are accordingly to obey his orders.

Collectors and their officers prohibited being

extra-officially in revenues.

15. No Collector, [1] Assistant * [3] to a Collector, or any Native in the employ of a Collector or of an Assistant, shall hold, directly or indirectly, any farm, or be concerned on their private account in the collection or payment of the revenue of any lands in the zila, either as farmer, surety or otherwise; and Native officers and private servants and dependents of Collectors and Assistants are prohibited from purchasing directly or indirectly, any land that the Collector may dispose of at public sale, under the penalty of forfeiting the property to Government, upon proof being made, to the satisfaction of the Governor General in Council, of the property having been so purchased.

Bond fide purchases of land at private sale by Collector's officers, &c.

16. The rules in the preceding section, however, are not to be considered to prohibit a * * [4] Native officer of a Collector, or any private servant of a Collector or of an Assistant, from purchasing *bond fide* the proprietary right in lands situated in the zila, by private sale.

17. [*Prohibition against giving land to Europeans.*] *Rep. by the Repealing Act, 1868 (8 of 1868).*

Collectors and their Assistants prohibited from trading.

18. No Collector [5] [or] Assistant * * [3] shall, directly or indirectly, carry on any trade, or be concerned in any commercial transaction whatever.

This prohibition, with regard to Collectors and their Assistants, is declared to extend to the purchase directly or indirectly, of any goods or commodities in the British dominions in Bengal, for the purpose of remitting money to Europe.

19. [*Dewans prohibited from lending money to proprietors of land.*] *Rep. by the Repealing Act, 1873 (12 of 1873).*

Collectors to keep records.

20. The Collectors [1] are to be careful that the accounts and records of their respective zilas are kept complete and duly preserved.

21, 22. [*Rules for rendering zilas compact, and prohibition against employing sepoys in collection [of revenues.] Rep. by the Repealing Act, 1874 (16 of 1874).*

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 573.

[2] The words "and the dewan," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[3] The words "or dewan," which were repealed by the same Act, are omitted.

[4] The words "dewan or other," which were repealed by the same Act, are omitted.

[5] This word "or", in s. 18, was inserted by the Repealing and Amending Act, 1908 (1 of 1908), Sch. 2, in Vol. I, p. 39.

of 1793.]

REGULATION, 1793.

(Secs. 24-26.)

23. [*Restriction on Advances of takkari.*] *Rep. by the Land Improvement Act, 1871 (26 of 1871).*

24. The Collectors[1] are prohibited deputing any person into the zila of any other Collector, or exercising any authority beyond the limits of their respective zilas, excepting in cases in which they may be authorized so to do * * * [2] by special orders from a competent authority.

Collectors not to exercise authority beyond limits of their zilas without orders.

25. The Collectors[1] are to give monthly receipts for all payments of revenue into their treasuries, specifying the date or dates on which the money may be received * * * [3]

Rule with regard to receipts.

The keepers of the Native records are to keep a register of these receipts regularly numbered.

After having registered the receipts they are to attest on the face of them the date on which they may be registered.

A copy of this register is to be transmitted monthly to the Board of Revenue, or as often as that Board[4] may require.

A similar register of receipts is to be kept by all tahsildars, sazawals or other Native officers entrusted with the immediate collection of the public revenue, and a copy of it is to be transmitted to the Collector[1] monthly or as often as he may require.

26. The monthly or other receipts, for salaries, pensions or allowances, of whatever kind, which may be paid by the Collectors, are to be deposited amongst the public records of their respective zilas, and a register of them is to be kept by the keepers of the Native records. * * * [5]

Register of receipts for salaries, &c.

27. [*Collectors resigning or removed not to quit station without sanction.*] *Rep. by the Repealing Act, 1874 (16 of 1874).*

28, 29. [*Collectors to be subordinate to a Board of Revenue ; its constitution.*] *Rep. by the Bengal Board of Revenue Regulation, 1822 (3 of 1822).*

30. to 32. [*Power of Board over officers under them, and rules regarding deputations.*] *Rep. by the Repealing Act, 1874 (16 of 1874).*

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 36, *post*, p. 573.

[2] The words and figures "by a Regulation published in the manner directed in Regulation 41, 1793, or," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[3] The words "and the species of rupee in which each payment may be made," which were repealed by the same Act, are omitted.

[4] As to exercise of functions of the Board of Revenue by other authorities, see the references cited in the footnote on page 75 of Vol. I.

[5] The words "A copy of the register is to be transmitted annually to the Board of Revenue," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

In what cases
Board may
require
personal
attendance
of Natives.

[1] 33. The Board of Revenue^[2] are empowered to require the personal attendance of any proprietor or farmer of land, or any dependent talukdar, under farmer or raiyat, or any Native officer employed under a Collector, for the purpose of adjusting any settlement, or examining any accounts, or inquiring into any matter coming within their cognizance, provided the personal attendance of the party shall appear to them indispensably necessary.

In such cases the Board are to direct the Collector^[3] to serve such person with a written notice under his official seal and signature, specifying the business on account of which his attendance is judged necessary, and requiring him to attend the Board by such period as may limit, under pain of being subject to such daily fine until he attends, or shows satisfactory cause for his non-attendance, as the Board may think proper to impose.

The Board^[2] are empowered to fine such persons neglecting to appear by the time required, in such amount as may appear to them proper upon a consideration of the case and the situation and circumstances in life of the party, and the amount of the fine shall be levied by the Collector, ^[3] by the process^[4] prescribed for the recovery of arrears of revenue.

But the Board of Revenue^[2] are prohibited requiring the personal attendance of any person in cases in which the business can be transacted by a vakil.

34, 35. [*Execution of Board's orders, and powers of Members.*] *Rep. by the Bengal Board of Revenue Regulation, 1822 (3 of 1822).*

Powers of
Board as to
settlement of
lands held
khas.

36. The Board of Revenue^[2] are empowered to issue orders to their subordinate officers for making the settlement of lands that are or may be khas in conformity to the Regulations, and any special instructions which may be prescribed to them by the ^[5][Governor General in Council].

Security for
payment of
revenue.

37. In all cases of a settlement being made with or on behalf of zamindars, independent talukdars or other actual proprietors of land, their lands are to be deemed sufficient security for the payment of the revenue.

[1] For power to require the attendance before Collectors of purchasers at public sales and of landholders and native inhabitants generally, see Bengal Land-revenue Assessment Regulation, 1801 (1 of 1801), s. 10, *post*, p. 498.

For power to fine proprietors and farmers of land for attending before Collectors, see the Bengal Landholders Attendance Act, 1848 (20 of 1848), p. 610.

[2] As to the exercise of functions of the Board of due by other authorities, see the references cited in the footnote on page 75 of Vol. I.

[3] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 25, *post*, p. 573.

[4] See the enactments printed in Vol. IV under the head 'Recovery of Public Demands.'

[5] The words "Governor General in Council" in s. 36 are to be read as if the words "Local Government" were substituted therefor—see the Bengal Land-revenue Amendment Act, 1903 (1 of 1903), Sch. 2, in Vol. I, p. 39.

LAND-REVENUE.

of 1793.]

REGULATION, 1793.

(Secs. 38-43.)

But, where lands are let in farm, a malzamin, or surety for the punctual discharge of the revenue, is to be invariably required.

38. No remissions upon the settlement of a preceding year, nor any remissions whatsoever, are to be granted by the Board without the sanction of the [1][Governor General in Council]. Remissions.

39. It is to be observed as a general principle that the settlement of lands that are or may be khas is to be made by the Collectors under the regulations and the instructions of the Board of Revenue. [2] Settlements to be made by Collectors.

But if the Board should deem a special deputation of one of their members, or of any other person, necessary to form the settlement of any such lands, they are to propose the measure to the [1][Governor General in Council], with their reasons for recommending it.

40. Upon a settlement being concluded with any proprietor or farmer, conformably to the Regulations, the Board of Revenue [2] are to issue the usual bandobasti parwana to the proprietor or farmer, without applying to the [1][Governor General in Council] for [3][his] sanction for that purpose. Procedure on settlement being concluded.

41. The collection of the revenue is committed to the Collectors [4]; but the Board of Revenue [2] are to see that the revenues are realized by the stipulated periods, or that solid and satisfactory reasons are assigned by the Collectors [4] for any delay or deficiency. Collection of revenue.

The power of coercion over the proprietors and farmers of land is also vested in the Collectors, as prescribed in Regulation 14, 1793. [5]

42. The Board are authorized to grant temporary suspensions of the demands of revenue whenever it may appear to them indispensably necessary, reporting the sum suspended, without delay to the [1][Governor General in Council], with their reasons for the measure. But they are not to grant any suspensions beyond the current year. Temporary suspensions.

43. No remissions of balances are to be granted without the special authority of the [1][Governor General in Council]. Remissions of

44. [Accounts to be furnished to Governor General.] *Rep. by the Land Improvement Act, 1871 (26 of 1871).*

[1] The words "Governor General in Council" as if the words "Local Government" were substituted Act, 1908 (1 of 1908), Sch. 2, in Vol. I, p. 39.

[2] As to the exercise of functions of the Board references cited in the foot-note on p. 75 of Vol. I.

[3] The word "his" in s. 40 is to be read as if the word "its" was substituted therefor—see the Repealing and Amending Act, 1908 (1 of 1908), Sch. 2, in Vol. I, p. 39.

[4] As to the exercise of functions of Collectors by Settlement Regulation, 1822 (7 of 1822), s. 35, post.

[5] Ben. Reg. 14 of 1793 was repealed by the Bengal Land-revenue Act, 1874 (16 of 1874), but this reference is saved by the proviso to that Act.

ss. 38, 39, 40, 42 and 43 are to be read as see the Repealing and Amending

Revenue by other authorities, see the

word "its" was substituted therefor—Sch. 2, in Vol. I, p. 39.

officers, see the Bengal Land-revenue

Act, 1874 (16 of 1874), but this

THE BENGAL LAND-REVENUE REGULATION, 1793. [Reg. 2 of 1793.]

(Sec. 45.)

Duty of Board
to furnish
accounts, &c.

45. The Board of Revenue [1] are to furnish the [2] [Governor General in Council] with such annual, monthly or other accounts as they now are or may be required to submit to [3] [him.]

They are likewise to observe all special orders which they have received or may receive from the [2] [Governor General in Council].

46, 47. [*Prohibitions to be observed by Board, and acknowledgment for places restored to foreign powers.*] Rep. by the Repealing Act, 1874 (16 of 1874).

48. [*Separate account of expenses for reducing rebellious zamindars and others.*] Rep. by the Repealing Act, 1873 (12 of 1873).

49-70. [*Rules for conducting the business of Board, and powers of President.*] Rep. by the Bengal Board of Revenue Regulation, 1822 (3 of 1822).

[1] As to the exercise of functions of the Board of Revenue by other authorities, see the references cited in the foot-note on p. 75 of Vol. I.

[2] The words "Governor General in Council" in s. 45 are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. 2, in Vol. I, p. 89.

[3] The word "him" in s. 45 is to be read as if the word "it" were substituted therefor,—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. 2, in Vol. I, page 89.

[Reg. 8 of 1793.] THE BENGAL DECENNIAL SETTLEMENT REGULATION, 1793

THE BENGAL DECENNIAL SETTLEMENT REGULATION, 1793

(REGULATION 8 OF 1793).

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- 44-48. [*Repealed.*]

[1] This Table has been newly added.

SECTION.

49. Certain istimrardars not liable to increase of rent.
50. Exception to above.
51. Rules to prevent undue exactio: from talukdars.
52. Power of actual proprietors to set remaining lands as they think proper.
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54. Process to prevent imposition on raiyats under denomination of abwáb, mathat, etc.
55. Proprietors and farmers of land prohibited imposing new abwáb or mathat on raiyats.
- 56-63. [*Repealed.*]
64. Adjustment of mufussal kistbandi
65. Bar to engagements contrary to Regulation.
66. Landholders, etc., not to interfere in matters coming within cognizance of Courts or Magistrates.
67. *First to Fourth.*—[*Repealed.*]
Fifth.—Collector to attend to spirit of Regulation, where not applicable to particular districts.
Sixth.—[*Repealed.*]
- 68-101. [*Repealed.*]

THE BENGAL DECENNIAL SETTLEMENT REGULATION, 1793^[1]

(BENGAL REGULATION 8 of 1793).

[1st May, 1793.]

A Regulation for re-enacting, with modifications and amend-

[1] **SHORT TITLE.**—This short title was given by the Amending Act, 1897 (5 of 1897).

LOCAL EXTENT.—This Regulation was passed for the whole of Bengal—see the title. It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), section 6 (printed, General Acts, 1868-76, Ed. 1898, p. 434), to be in force throughout Bengal, except as regards the Scheduled Districts.

The Regulation has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), section 3, to be in force in the following Scheduled Districts, namely:

the Hazaribagh and Manbhum Districts, and Patna District, in the Chota Nagpur Division—see Vol.

Dhalbhum in the Singhbhum. Part V B (3).

The Regulation is in force in the Sonthal Parganah in the other de-regulationised tracts in Bengal is barred

V, Part VI B (c), but its application follows, namely:—

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), section 3 (2), printed in Vol. I, p. 267, and

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), section 3 (2),

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), section 3 (2),

SEPARABLE TALUKS.—The rules regarding separable taluks, are not applicable to any new taluk constituted since the Bengal Land-revenue Assessment Regulation, 1901 (1 of 1901), s. 14, post, p. 499.

contained in Regulation 8 of the Decennial Settlement, 1801, s. 14, post, p. 499.

of 1793.]

SETTLEMENT REGULATION, 1793.

(Secs. 4-14.)

ments, the rules for the Decennial Settlement of the public revenue payable from the lands of the zamindars, independent talukdars and other actual proprietors of land, in Bengal, Bihar and Orissa, passed for those Provinces respectively on the 18th September, 1789; the 25th November, 1789; and the 10th February, 1790, and subsequent dates.

1-3. [*Re-enactment of code of rules passed on 23rd November, 1791; term of settlement; to be perpetual with approbation of Court of Directors.*] *Rep. by the Repealing Act, 1874 (16 of 1874).*

4. The settlement, under certain restrictions and exceptions hereafter specified, shall be concluded with the actual proprietors of the soil, of whatever denomination, whether zamindars, talukdars or chaudhris.

Settlement with whom to be concluded.

5-12. [*What talukdars to be actual proprietors; payment of rent through actual proprietors; what talukdars to be leaseholders; jangalburī talukdars; proprietors of malguzari aima lands; rules for guidance of Collectors; right of dissatisfied parties to sue in Court of Diwani Adalat.*] *Rep. by the Repealing Act, 1874 (16 of 1874).*

13. Talukdars ordered to be separated are not to be permitted to pay the revenue assessed upon their lands through the zamindars or other actual proprietors of estates as heretofore.

Payment of revenue by talukdars ordered to be separated.

14. Talukdars who, in consequence of the rules in sections 5 and 9,[1] may be separated from the zamindars or other actual proprietors of estates, through whom they heretofore paid their revenues, are to pay their revenue in future immediately into the Collector's treasury; except in districts where, from the number of taluks, or other cause, this mode would be attended with considerable inconvenience, in which case tansildars, or Native Collectors, are to be appointed to receive the revenue of the taluks in such districts.

Separated talukdars where to pay revenue.

[1] Sections 5 and 9 were repealed by the Repealing Act, 1874 (16 of 1874), but this reference is saved by the proviso to that Act. The sections are as follow:—

"5. *First.*—The talukdars to be considered the actual proprietors of the lands composing the taluks are the following:—

Second.—Talukdars who purchased their lands by private or at public sale, or obtained them by gift from the zamindar or other actual proprietor of land to whom they now pay the revenue assessed upon their taluks, or from his ancestors, subject to the payment of the established dues of Government, and who received deeds of sale, or gift of such land, from the zamindar, or sanads from the khalea, making over to them his proprietary rights therein.

Third.—Talukdars, whose taluks were formed before the zamindar or other actual proprietor of land to whom they now pay their revenue, or his ancestors, succeeded to the zamindari.

Tahsildars. *

15. Zamindars or other actual proprietors of land, from whose zamindari or estates taluks may be separated, shall not be appointed tahsildars to receive the revenue of the taluks so separated, but the office of tahsildar shall, in every instance, be given to some other person of character and responsibility, and the whole expense of it is to be defrayed by Government.

16-18. [*Rules respecting mukarrari leases and mukarraridars.*] *Rep. by the Repealing Act, 1876 (12 of 1876).*

Istimrardars to be considered as patta talukdars.

19. Istimrardars, however, who have not got possession of their lands to the exclusion, or without the consent, of the actual proprietors, * * * [1] but hold them of the proprietors on patta or lease, are to be considered as a species of patta talukdars, and the settlement is to be made with them as hereafter specified.

Exceptions to general order for conclusion of decennial settlement with actual proprietors of soil.

20. The exceptions to the general order for the conclusion of the decennial settlement with the actual proprietors of the soil, contained in section 4, include the following descriptions of persons; females (excepting those whom the [2] [Governor General in Council], may judge competent to the management of their own estates), minors, idiots, lunatics or others rendered

Fourth.—Talukdars, the lands comprised in whose taluks were never the property of the zamindar or other actual proprietor of the soil to whom they now pay their revenue, or his ancestors.

Fifth.—Talukdars who have succeeded to taluks of the nature of those described in the preceding clauses, by right of purchase, gift or inheritance, from the former proprietor of such taluks.

"9. The rules in section 5, respecting taluks, have also been extended to aima lands liable to the payment of a fixed quit revenue, denominated malguzari aima; and, agreeably to the distinctions laid down in that section, it has been ordered, that such malguzari aima tenures as are held under grants of the Muhammadan government previous to the Company's accession to the Diwani, or which have been since granted by proprietors of estates for a consideration received by them, are to be separated from the proprietors to whom their revenue is now paid, as coming within the spirit of the rules for the separation of talukdars who are proprietors of the lands composing their taluks. But malguzari aima tenures which may appear to have been *bona fide* granted for the purpose of bringing waste-lands into cultivation shall continue included in the estates to which they are now annexed, as coming within the rules in section 8, respecting jangalburi taluks."

[1] The words and figures "as the mukarraridars mentioned in section 18 are supposed to have done," which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

[2] The words "Governor General in Council", in section 20, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1908 (1 of 1908), Sch. 2, in Vol. I, p. 39.

of 1793.]

SETTLEMENT REGULATION, 1798.

(Secs. 21-26.)

incapable of managing their lands by natural defects or infirmities of whatever nature: * * * [1] provided, however, with regard to the whole of these descriptions, that they are not partners in the zamindaris, independent taluks or other estates held by them, with others of a different description, in which case themselves or guardians are allowed, with their partners, to engage for the settlement of their lands, and elect a joint manager, under the restrictions hereafter mentioned.

21. The lands of disqualified proprietors, coming within the above descriptions, are to be managed for the benefit of the proprietors by persons appointed to the trust by [2] [Government] * * * * [8].

Management of lands of disqualified proprietors.

22. A further exception has been made to proprietors in balance to Government, and unable to pay the arrears due from them; in which instances no settlement is to be concluded with the defaulting proprietors, but their lands are to be let in farm, or held khns, for a period of three years, at the discretion of the Collector.[4]

Exception as to proprietors of land in balance to Government and unable to pay arrears.

23-25. [*Settlement of undivided estates possessed by several proprietors; appointment of manager; when guardians of proprietors may vote in choice of manager; nomination of manager by Collector.*] Rep. by Ben. Reg. 17 of 1805.

26. The determination of the majority of the proprietors present, under the restrictions specified in section 23,[5] is also to be binding on the remainder, in agreeing or disagreeing to the jama proposed for undivided estates. The

Determination of agreement to jama of undivided estates.

[1] The words "and persons whom the Government on account of their contumacy or notorious Ben. Reg. 7 of 1796, s. 2, are omitted.

[2] The word "Government" in section 21 is to be substituted therefor—see the Repealing in Vol. I, p. 39.

[3] The words "in the mode prescribed in Regulation the selection and conduct of such managers, as well as support of the proprietors," which were repealed by the omitted.

[4] As to the exercise of functions of Collectors by revenue Settlement Regulation, 1822 (7 of 1822), s. 35,

[5] S. 23 was repealed by Reg. 17 of 1805. It ran

"23. Where more proprietors than one possess an be not within the description of disqualified landholders be made with them jointly, and they are to be required to shall have the exclusive management of their lands during the determination of the majority of the proprietors, or of event of the absence of any, is to be binding on the remainder when the votes of the proprietors are equal, the election of the greater interest of the proprietors in the property. If the manager is to be appointed by the Board of Revenue."

General in Council may deem disqualified of character," which were repealed by

read as if the words "Local Government" amending Act, 1903 (1 of 1903), Sch. 2,

10, 1798, which also contains rules for regarding the provision to be made for the repealing Act, 1874 (10 of 1874), are

other officers, see the Bengal Land-est, p. 573.

follows:—

undivided estate, and the whole of them fixed in section 20, the settlement is to be made at a sarbarahkar or manager, who during the continuance of his appointment, the majority of those present in the election in the choice of a manager; and, manager is to be determined by any case the interest also be equal,

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sharers, however, if dissatisfied, may obtain a division of their lands and a proportionate allotment of the revenue assessed thereon, but at their own expense.

Settlement of land standing in joint names of several proprietors, or of one for many.

27. When a portion of land stands in the joint names of several proprietors, or of one for many, but each proprietor has his separate share in his own possession and management, or in that of an agent for him, the settlement is to be made for each share with the person in possession, and his land is to be held exclusively responsible for the revenue assessed upon it.

28, 29. [*Settlement of mortgaged lands; settlement when proprietors are not forthcoming.*] *Rep. by the Repealing Act, 1876 (12 of 1876).*

Settlement of disputed estates.

30. Where the property in lands is disputed, the settlement is to be made with the proprietor in possession, under an express declaration that he is nevertheless liable to the claims upon the estate, which is to be transferable to any other person to whom the property may be subsequently adjudged.

If no claimant has been previously in possession.

31. If a case should occur in which none of the claimants shall have been previously in possession, they are to be allowed to appoint a manager until their claims shall have been determined in the Diwani Adalat of the zila: but, if they should not agree to a manager, the lands are to be held khas, and the surplus produce, after discharging the revenue, is to be kept in deposit, until the right of property shall be adjudged.

Settlement in cases of disputes as to boundaries.

32. Where disputes exist concerning the boundaries of land, they are to be left to be adjusted in the Diwani Adalat, and the settlement is to be made in the meantime for the lands in possession of the disputing parties respectively.

33. [*Rules for fixing assessment.*] *Rep. by the Repealing and Amending Act, 1903 (1 of 1903).*

Allowances of kasis and kanungos, and public pensions, to be added to the jama.

34. The allowances of the kasis and kanungos heretofore paid by the landholders, as well as any public pensions hitherto paid through the landholders, are to be added to the amount of the jama, and in future paid by the Collectors [1] of the revenue of the several zilas, on the part of Government, under the rules and restrictions laid down for their guidance, with regard to such payments, in the Resolutions passed by the Governor General in Council on the 10th June, 1791, and re-enacted with modifications, by Regulation 24, 1793[2]

[1] As to the exercise of functions of Collectors by other revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 572. see the Bengal Land-

[2] Ben. Reg. 24 of 1793 was repealed by the Pensions Act, 1871 (1 of 1871).

of 1793.]

SETTLEMENT REGULATION, 1793.

(Secs. 35-39.)

35. The assessment is to be fixed exclusive and independent of all duties, taxes and other collections, known under the general denomination of *sair*; the collections made in the *ganjes*, *haths* and *bazars*, situated within the limits of the town of Calcutta [1] excepted, and excepting also the collections confirmed to the proprietors and holders of *ganjes*, *bazars* and *haths* by the Resolutions passed by the Governor General in Council on the 11th of June, 1790. ~~For~~

Assessment to be fixed exclusive of *sair* with exceptions.

xxx 36. The assessment is also to be fixed exclusive and independent of all existing *lakhiraj* lands, whether exempted from the *khiraj* (or public revenue) with or without due authority.

Also exclusive of *lakhiraj* lands.

37. The above exemption, however, is not meant to include the *malikana* lands in Bihar, or the *nankar*, *khamar*, *nij-jot* and other private lands of the zamindars and independent talukdars or other actual proprietors of land in Bengal and Midnapore, regarding which the following rules have been prescribed.

But not of *malikana* lands in Bihar, or other lands in Bengal and Midnapore.

38. Where the zamindars or other actual proprietors of land in Bihar have resigned, or have been deprived of the management of their lands, retaining possession of a tithe as *malikana*, the latter is to be re-annexed, and the zamindars or other actual proprietors are to be required to engage for the whole of their estates including the *malikana* lands; unless such lands be held as *malikana* under grants made or confirmed by the Governor General in Council, or the supreme authority of the country for the time being, and have been sold or mortgaged, and given in possession to the mortgagee, in which case they are to be exempted from this rule.

Malikana lands in Bihar to be re-annexed.

Grants for *malikana* lands not made or confirmed by the supreme authority of the country are declared invalid by the Regulations passed on the 8th August, 1788.

If the Collectors, [3] however, should be of opinion that any material injury will be done to any individual by the execution of these orders, they are to report the circumstances to the Board of Revenue.

39. The *nankar*, *khamar*, *nij-jot* and other private lands appropriated by the zamindars, independent talukdars and other actual proprietors of land in Bengal and Orissa to the subsistence of themselves and families shall be also annexed to the *malguzari* lands, and the ten years' *jama* fixed upon the whole

Nankar, *khamar*, *nij-jot* and other private lands of proprietors in

[1] As to Calcutta, see the Calcutta Land-revenue Act, 1850 (23 of 1850), *post*, p. 615.

[2] The second sentence of s. 35, which was repealed by the Repealing Act, 1874 (16 of 1874), is omitted.

[3] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1833 (7 of 1833), s. 35, *post*, p. 572.

Bengal and
Orissa to be
annexed to the
malguzari
lands.

under the following modification; that such proprietors as may decline to engage for their lands be allowed the option of retaining possession of their private lands above specified, upon the terms on which they have hitherto possessed them, provided they shall prove, to the satisfaction of the Board of Revenue [1], that they held them under a similar tenure previous to the 12th August, 1765, the date of the grant of the Diwani to the Company, and have hitherto been permitted to keep possession of them, whenever their zamindaris or estates have been held khas or let in farm, but not otherwise.

In the event of such proof, and of their availing themselves of the option above given to retain possession of their private lands, a deduction, adequate to the neat produce of such lands, is to be made from the amount of the allowance fixed for excluded proprietors by section 44.[2]

Consolidation
of malguzari
and private
lands also in
certain taluks.

40. The above consolidation of the malguzari and private lands is also to be made in the taluks continued under the proprietors on whom they have hitherto been dependent; not, however, with a view of increasing the rents of the talukdars, but in order to make the whole of the lands composing their taluks answerable for their proportion of the public assessment allotted thereon.

Chakaran
annexed to
malguzari
lands.

41. The chakaran lands, or lands held by public officers and private servants in lieu of wages, are also not meant to be included in the exception contained in section 36. The whole of these lands in each Province are to be annexed to the malguzari lands and declared responsible for the public revenue assessed on the zamindaris, independent taluks or other estates in which they are included, in common with all other malguzari lands therein.

42. [*Engagements for the jama to be for Sicca rupees.*] *Rep. by the Repealing Act, 1874 (16 of 1874).*

Procedure in
case of land-
holders
declining to
engage for
jama proposed
to them.

43. In the event of any proprietor declining to engage for the settlement of his lands at the jama proposed to him, the Collector [3] is to communicate the objections offered, with his opinion respecting them, to the Board of Revenue.

That Board [1] is to determine the proper assessment after making such

[1] As to exercise of functions of the Board of Revenue by other authorities, see the references cited in the foot-note on p. 75 of Vol. I.

[2] S. 44 was repealed by the Repealing Act, 1874 (16 of 1874).

[3] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 25, *post*, p. 573.

of 1793.]

SETTLEMENT REGULATION, 1793.

(Secs. 49, 50.)

further inquiries as they may think necessary, and the objecting proprietor is to be required to engage for such assessment without further delay; and in the event of his refusal, which is to be given in writing, his lands are to be let in farm or held khas, as the Board of Revenue [1] may in each instance think most expedient.

44-47. [*Proprietors refusing to engage for the jama to receive malikana; rules respecting payment of malikana and enforcement of payment from farmers.*] *Rep. by the Repealing Act, 1874 (16 of 1874).*

48. [*Settlement by proprietors with talukdars under them.*] *Rep. by the Repealing Act, 1876 (12 of 1876).*

49. It is to be understood, however, that istimrardars (mukarraridars) of the nature of those described in section 18, [2] who have held their land at a fixed rent for more than twelve years, are not liable to be assessed with any increase, either by the officers of Government or by the zamindar or other actual proprietor of land, should he engage for his own lands.

Certain
istimrardars
not liable to
increase of
rent.

With regard to such istimrardars also as have not held their lands at a fixed rent for so long a period, if the zamindar or other actual proprietor of land has bound himself by the deed which he may have executed not to lay any increase upon them, he shall not be allowed to infringe the conditions of the deed for his own benefit, but must confine his demands to the rent he may have voluntarily agreed to receive.

50. This last restriction imposed on the zamindar or other actual proprietor of land, in section 49, is not to be considered to preclude the officer of Government or farmer, in the event of the zamindari being held khas or let in farm, from assessing such istimrardars according to the general rate of the district.

Exception to
above.

[1] As to exercise of functions of the Board of Revenue by other authorities, see the references cited in the footnote on p. 75 of Vol. I.

[2] S. 18 was repealed by the Repealing Act, 1876 (12 of 1876), but this reference is saved by the proviso to that Act. The section ran as follows:

"18. Mukarraridars holding lands of which they are the actual proprietors and whose mukarrari grants have been obtained since the Company's accession to the Diwani, and never received the sanction of the Supreme Government, are to be made with the actual proprietors of the soil under this dispossession, and the settlement is to be made according to the rate of the district."

In cases, however, where such mukarraridars have been in possession of their mukarraris for a term exceeding twelve years, they are to receive during their lives (subject to the pleasure of the Honourable Court of Directors) the difference between the jama at which they held the lands and that which may be now agreed to by the actual proprietors, added to the neat produce of the lands, authorized sale, resumed or abolished."

(see 51-54.)

Rules to
prevent
undue
exactions
from
talukdars.

[1] 51. The following rules are prescribed to prevent undue exaction from the dependent talukdars:-

First.—No zamindar or other actual proprietor of land shall demand an increase from the talukdars dependent on him, although he should himself be subject to the payment of an increase of jama to Government; except upon proof that he is entitled so to do, either by the special custom of the district, or by the conditions under which the talukdar holds his tenure; or that the talukdar, by receiving abatements from his jama, has subjected himself to the payment of the increase demanded, and that the lands are capable of affording it.

Second.—If, in any instance, it be proved that a zamindar or other actual proprietor of land exacts more from a talukdar than he has a right to, the Court shall adjudge him to pay a penalty of double the amount of such exaction, with all costs of suit, to the party injured.

Power of actual proprietors to let remaining lands as they think proper.

[2] 52. The zamindar or other actual proprietor of land is to let the remaining lands of his zamindari or estate, under the prescribed restrictions, in whatever manner he may think proper; but every engagement contracted with under-farmers shall be specific as to the amount and conditions of it; and all sums received by any actual proprietor of land or any farmer of land, of whatever description, over and above what is specified in the engagements of the persons paying the same, shall be considered as extorted, and be repaid with a penalty of double the amount. The restrictions prescribed and referred to in this section are the following:

Lands so let not to be taken charge of without

[2] 53. No person contracting with a zamindar, independent talukdar or other actual proprietor or employed by him in the management of the collections shall be authorized to take charge of the lands or collections without an amilnama, or written commission, signed by such zamindar, independent talukdar or other actual proprietor.

Process to prevent im-

[2] 54. The impositions upon the raiyats, under the denomination of abwab,

[1] Notwithstanding anything contained in s. 51 of this Regulation, certain dependent talukdars and other persons are not to be liable to enhancement of rent—see the Bengal Rent Act, 1859 (10 of 1859), s. 15, *ante*, p. 186, and the Chota Nagpur

Settlement Regulation, 1822 (7 of 1822—printed *post*, p. 539), or under any other law for the time being in force for the regulation of settlements of Land-revenue—see the Bengal Rent Settlement Act, 1879 (Ben. Act 8 of 1879), s. 4, *ante*, p. 238.

Ss. 51 to 55, 64 and 65 are repealed by the Bengal Tenancy Act, 1885 (8 of 1885), s. 2 (1) (printed *ante*, p. 358), in the whole of Bengal "except the town of Cuttack, the Division of Orissa and the Scheduled Districts."

As to the extension of this repeal to the Division of Orissa, see s. 2 of the Act of 1885, *ante*, p. 252.

The extension of the repeal to Scheduled Districts depends upon extending the Act of 1885 to such districts. Under the terms of the notification extending the Act of 1885 to the Julpai District, the repeal has taken effect in that

[2] As to the local repeal of ss. 52 to 54, see footnote to s. 51, *ante*, this page.

Tenancy

of 1793.]

SETTLEMENT REGULATION, 1793.

(Secs. 55-64.)

mathat and other appellations, from their number and uncertainty having become intricate to adjust, and a source of oppression to the raiyats, all proprietors of land and dependent talukdars shall revise the same, in concert with the raiyats, and consolidate the whole with the assal into one specific sum.

position on raiyats under denomination of abwab, mathat, etc.

In large zamindaris or estates the proprietors are to commence this simplification of the rents of their raiyats in the parganas where the impositions are most numerous, and to proceed in it gradually till completed; but so that it be effected for the whole of their lands by the end [1] of the Bengal year 1198 in the Bengal districts, and of the Fasil[2] and Wilayati [3] year 1198 in the Bihar and Orissa districts, these being the periods fixed for the delivery of pattas, as hereafter specified.

[4] 55. No actual proprietor of land or dependent talukdar or farmer of land, of whatever description, shall impose any new abwab or mathat upon the raiyats under any pretence whatever.

Proprietors and farmers of land prohibited imposing new abwab or mathat on raiyats.

Every exaction of this nature shall be punished by a penalty equal to three times the amount imposed; and if, at any future period, it be discovered that new abwab or mathat have been imposed, the person imposing the same shall be liable to this penalty for the entire period of such impositions.

56, 57. [Variations of pattas according to articles of produce; what pattas delivered to raiyats shall contain.] Rep. by the Repealing Act, 1876 (12 of 1876).

58. [Forms of pattas.] Rep. by the Bengal Land Revenue Sales Regulation, 1812 (5 of 1812), s. 3.

59, 60. [Right of raiyats to demand pattas; existing leases to remain in force until period of expiration; restriction on cancelling pattas of khudkast raiyats.] Rep. by the Repealing Act, 1876 (12 of 1876).

61. [Time allowed for delivery of pattas to raiyats.] Rep. by the Repealing Act, 1874 (16 of 1874).

62. [Rules regarding patwaris.] Rep. by the Bengal Patwaris Regulation, 1817 (12 of 1817), as extended by the Bengal Kanungos and Patwaris Regulation, 1819 (1 of 1819), s. 4 (2).

63. [Proprietors to give receipts for rent or revenue received, and not to demand rent of absconded raiyats from those who remain.] Rep. by the Repealing Act, 1874 (16 of 1874).

[4] 64. The proprietors of land, dependent talukdars and farmers of land, of every description, are to adjust the instalments of the rents receivable by them from their under-renters and raiyats, according to the time of reaping and selling the produce, and they shall be liable to be sued for damages for not conforming to this rule.

Adjustment of mufassal kistbandis.

[1] i.e., the 1st April, 1792. [2] i.e., the 12th Sept., 1791. [3] i.e., the 1st Sept., 1791. As to the local repeal of ss. 55 and 64, see footnote [1] on p. 464, ante.

THE BENGAL DECENNIAL SETTLEMENT REGULATION, 1793. [Reg. 8 of 1793.]

(Secs. 65-67.)

Bar to engagements contrary to Regulation.

Landholders, &c., not to interfere in matters coming within cognizance of Courts or Magistrates.

Collector to attend to spirit of Regulation, where not applicable to particular districts.

[1] 65. No proprietor [of land or dependent talukdar shall contract any engagement with any under-farmer, or authorize any act, contrary to the letter and meaning of this Regulation.

66. Zamindars, independent talukdars and other actual proprietors of land, dependent talukdars, farmers of land holding farms immediately of Government, and all persons farming lands of the above-mentioned descriptions of landholders and farmers of land, and their respective officers, agents, servants, dependents and raiyats, are prohibited from taking cognizance of, or interfering in, matters or causes coming within the jurisdiction of the Courts of Civil Judicature, * * * [2] or the Magistrates, under pain of being liable to the payment of such fine to Government, and damages to the party injured, as the Court of Judicature in which they may be prosecuted for the act may deem it proper to impose and award.

67. *First to Fourth.* [Restrictions in the *kabuliyats* to be in force; proprietors entitled to sell or mortgage their estates from date of settlement; rules regarding recovery of arrears from raiyats; withdrawal of police jurisdiction from proprietors.] *Rep. by the Repealing Act, 1876 (12 of 1876).*

Fifth.—In the original rules above-mentioned it was also directed that, if in any instance the Regulations should appear inapplicable to the circumstances of any particular district, the Collector [3] should attend to the spirit of them, and carry them into execution in such mode as circumstances might allow, reporting any alterations or modifications which he might deem necessary.

This rule is to be considered still in force in forming any settlements which remain to be concluded, but it is not to be construed to empower the Collector to exercise any judicial authority.

Sixth.—[Settlement under Regulations in force prior to the original rules for the decennial settlement.] *Rep. by the Repealing Act, 1876 (12 of 1876).*

68-101. [Special orders for Bengal, Bihar, Midnapore and Salt Districts.] *Rep. by the Repealing Act, 1874 (16 of 1874).*

[1] As regards s. 65, it should be noted that the portion of the Bengal Land-revenue Sales Regulation, 1812 (5 of 1812), s. 3, which was repealed by the Repealing Act, 1874 (16 of 1874), rescinded "such parts of Reg. 8 of 1793 . . . as declare that engagements for rent contracted in any other mode than that prescribed by the Regulation shall be deemed to be invalid."

As to the local repeal of s. 65, see footnote [1] on p. 464, *ante*.

[2] The words "or the Courts of Circuit," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

[3] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 573.

[Reg. 19 of 1793.] THE BENGAL REVENUE-FREE LANDS (NON-BAD-SHAHI GRANTS) REGULATION, 1793.

THE BENGAL REVENUE-FREE LANDS (NON-BAD-SHAHI GRANTS) REGULATION, 1793

(REGULATION 19 OF 1793).

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THE BENGAL REVENUE-FREE LANDS (NON-BAD-SHAHI GRANTS) REGULATION, 1793 ^[1]

(REGULATION 19 1793).

[1st May, 1793.]

A Regulation for re-enacting, with modifications, the rules passed by the Governor General in Council on the 1st December, 1790, for trying the validity of the titles of persons holding, or claiming a right to hold, lands exempted from the payment of revenue to Government, under grants not being of the description of those termed badshahi or royal; and for determining the amount of the annual assessment to be imposed on lands so held, which may be adjudged or become liable to the payment of public revenue.

Preamble.

1. By the ancient law of the country the ruling power is entitled to a certain proportion of the produce of every bigha of land (demandable in money

[1] **SHORT TITLE.**—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), printed in Vol. I, p. 18.

LOCAL EXTENT.—This Regulation was declared by the Cuttack land-revenue Regulation, 1805 (12 of 1805), ss. 17 and 24 (printed *post*, pp. 508, 509), to be in force, with modifications, in the District of Cuttack.

It has since been declared, by the Laws Local Extent Regulation, 1874 (15 of 1874), section 6 (printed, General Acts, 1868-76, Ed. 1898, p. 494), to be in force throughout Bengal, except as regards the Scheduled Districts.

The Regulation has been declared, by notification under the Scheduled Districts Act, 1874

of 1793.] (NON-BADSHAHI GRANTS) REGULATION, 1793.

(Sec. 1.)

or kind, according to local custom), unless it transfers its right thereto for a term or in perpetuity, or limits the public demand upon the whole of the lands belonging to an individual, leaving him to appropriate to his own use the difference between the value of such proportion of the produce and the sum payable to the public, whilst he continues to discharge the latter.

As a necessary consequence of this law, if a zamindar made a grant of any part of his lands to be held exempt from the payment of revenue, it was considered void, from being an alienation of the dues of Government without its sanction.

Had the validity of such grants been admitted, it is obvious that the revenue of Government would have been liable to gradual diminution.

Previous, however, to the Company's accession to the Diwani, numerous grants of this description were made, not only by the zamindars, but by the officers of Government appointed to the temporary superintendence of the collection of the revenue, under the pretext that the produce of the lands was to be applied to religious or charitable uses.

Of these grants some were applied to the purposes for which they were professed to have been made, but in general they were given for the personal advantage of the grantee, or with a view to the clandestine appropriation of the produce to the use of the grantor, or sold to supply his private exigencies.

In conformity to the principles which prevailed under the Native Administration, the British Government have at various times declared all grants for holding land exempt from the payment of revenue made since the date of

(14 of 1874), section 8, to be in force in the following Scheduled Districts, namely:—

~~West Jalpaiguri in the Jalpaiguri District—see Vol. V, Part V, B (a); and~~
the Hazaribagh, Ranchi, Palamau and Manbhum Districts, and Pargana Dhalbhum, in the Singhbhum District, in the Chota Nagpur Division—see Vol. V, Part V, B (b).

The Regulation is in force in the Sonthal Parganas—see Vol. V, Part VI, B (c); but its application in the other de-regulationised tracts in Bengal is barred as follows, namely:—

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), section 8 (2), printed in Vol. I, p. 257; and

OTHER ENACTMENTS.—Further Regulations dealing with revenue-free lands are the Bengal Revenue-free Lands (Badshahi Grants) Regulation, 1793 (1 of 1793), the Bengal Revenue-free Lands Regulation, 1800 (8 of 1800), the Bengal Land-revenue Settlement (Resumed Kanungos and Revenue-free Lands) Regulation, 1825 (13 of 1825), and the Bengal Revenue-free Lands Regulation, 1825 (14 of 1825), all of which are printed *post*. The latter Regulation modifies Regs. 19 and 37 of 1793—see its first section, *post*, p. 590.

The rules prescribed in Regs. 19 and 37 of 1793, for holding lands exempt from the payment of the public revenue, have been declared applicable to grants for holding lands under mukarrari or other tenures—see the Bengal Land-revenue Assessment (Resumed) Regulation, 1819 (2 of 1819), *post*, p. 520.

(Sec. 1.)

the Company's accession to the Diwani, without their sanction, illegal and void.

Their lenity, however, induced them to adopt it as a principle that grants of this description made previous to the date of the Diwani, and provided the grantees had obtained possession, should be held valid to the extent of the intentions of the grantor, as ascertainable from the terms of the writings by which the grants might have been made, or from their nature and denomination.

But no complete register of these exempted lands having been formed upon the Company's accession to the Diwani, nor subsequent to that period, many zamindars, as well as the temporary farmers of the public revenue, and the officers of Government to whom the collection of the revenue in the different districts has been occasionally committed, in consequence of the zamindars refusing to pay the revenue demanded of them, have availed themselves of the above-mentioned rule of limitation to make grants of extensive tracts of land to others, or in the names of their relations or dependents, for their own use, dating the deeds for these alienations previous to the Company's accession to the Diwani, or procuring them to be registered in the zamindari records as having been alienated prior to that period.

Others have made such alienations without antedating the grants, and left it to the grantee to maintain himself in possession by such means as circumstances might afford, in the event of his title being brought into question.

The Governor General in Council deeming it incumbent on him to recover the public dues thus alienated in opposition to the ancient and existing laws of the country, as well as to resume the revenue of all lands the grants for which might expire; and as the proprietors of estates were not entitled to collect such of the public dues from the lands included in their estates, as Government had judged it advisable to transfer to individuals, or to resume those which had been alienated by themselves or others, the amount in both cases being excluded from the assets on which the settlement was to be concluded, it was made a rule at the time of forming the decennial settlement, and which has been re-enacted by section 36, [1] Regulation 8, 1793, that the jama assessed upon the estates of individuals was to be considered as exclusive and independent of all existing lakhiraj lands, whether exempted from the khiraj or public revenue, with or without due authority; and by

[1] Printed *ante*, p. 461.

of 1793.] (NON-BADSHAHI GRANTS) REGULATION, 1793.

(Sec. 2.)

the third clause [1] of the seventh article of the Proclamation contained in Regulation 1, 1793, which specifies the conditions under which Government declared the decennial settlement permanent, it is expressly stipulated that the Governor General in Council will impose such assessment as he may deem equitable on all lands at present alienated and paying no public revenue, which have been or may be proved to be held under illegal or invalid titles.

The Governor General in Council, however, at the same time that he is desirous of recovering the public dues from lands which have been illegally alienated, is equally solicitous that persons holding such grants under titles that are declared valid should be secured in the possession and enjoyment of their property.

It is likewise his wish that the recovery of the dues of Government from those lands which have been illegally alienated previous to the 1st December, 1790, should be attended with as little distress as possible to the possessors; and, to obviate all injustice or extortion in the inquiry into the titles of persons holding exempted lands, he has further resolved that the claims of the public on their lands (provided they register the grants as required in this Regulation) shall be tried in the Courts of Judicature, that no such exempted lands may be subjected to the payment of revenue until the titles of the proprietor shall have been adjudged invalid by a final judicial decree.

Upon the above grounds, and with a view to facilitate the recovery of the public dues from lands held exempted under invalid grants, as well as to prevent any similar alienations being hereafter made, to the prejudice of the security of the public revenue which has been assessed in perpetuity upon the estates of individuals; and further, that Government and the officers employed in the collection of the public revenue may at all times have in their possession a correct register of the lands in the several zilas held exempt from the payment of revenue, the following rules, containing the rules passed on the 1st December, 1790, with modifications, have been enacted:

2. *First*.—All grants for holding land exempt from the payment of revenue made previous to the 12th August, 1765, the date of the Company's accession to the Diwani, by whatever authority, and whether by a writing or without a writing, shall be deemed valid, provided the grantee actually and *bond fide* obtained possession of the land so granted previous to the date above mentioned, and the land shall not have been subsequently rendered subject to the payment of revenue by the officers or the orders of Government.

Validity of grants of alienated land made before and after 12th August, 1765

(Sec. 2.)

If it shall be proved, to the satisfaction of the Court, that the grantee did not obtain possession of the land so granted previous to the 12th August, 1765, or that he did obtain possession of it prior to that date, but that it has been since subjected to the payment of revenue by the officers or the orders of Government, the grant shall not be deemed valid.

Second.—In the event, however, of a claim being preferred by any person to hold land exempt from the payment of revenue, under a grant made previous to the date of the Company's accession to the Diwani, and of it being proved, to the satisfaction of the Court in which the suit may be instituted in the first instance, or to which it may be appealed, that the grantee held the land exempt from the payment of revenue previous to that date, but that it was subjected to the payment of revenue posterior thereto by an officer of Government, and the Court shall entertain doubts as to the competency of such officer, under the powers vested in him, to subject the lands to the payment of revenue, the Court shall suspend its judgment and report the circumstances to the [1] [Governor General in Council], to whom a power is reserved of determining whether such officer was or was not competent to subject the land to the payment of revenue; and, upon receiving the determination of the [1] [Governor General in Council], the Court is to decide accordingly.

No such claim, however, to hold exempt from the payment of revenue land that may have been subjected to the payment of revenue for the twelve years preceding the date on which the claim may be instituted shall be heard by any Zila or City Court, unless the claimant can show good and sufficient cause for not having preferred the claim to a competent jurisdiction within the twelve years

[2].

No persons, not being original grantees, entitled to hold lands free of revenue.

Third.—But no part of the two preceding clauses is to be construed to empower the Courts to adjudge any person, not being the original grantee, entitled to hold exempt from the payment of revenue land now subject to the payment of revenue, under a grant made previous to the Company's accession to the Diwani, the writing for which may expressly specify it to have been given for the life of the grantee only: or supposing no such specification to have been made in the writing, or the writing not to be forthcoming, or no writing to have been executed, where the grant, from the nature and denomin-

[1] The words "Governor General in Council", in section 2, to be read as if the words "Local Government" were substituted therefor—see the Bill and Amending Act, 1903 (1 of 1903), Sch. 2, in Vol. I, p. 89.

[2] The words and figures "and proceeded in it, as required by section 14, Regulation 3, 1793" in s. 2, cl. (2), which were repealed by the Repealing Act, 11 of 1874 (16 of 1874), are omitted.

✓ see in clause

of 1793.] (NON-BADSHAHI GRANTS) REGULATION, 1793.

(Sec. 2.)

ation of it, shall be proved to be a life-tenure only according to the ancient usages of the country.

Fourth.—Nor to entitle the heirs of any person now holding land exempt from the payment of public revenue under a grant made previous to the Diwani, to succeed to and hold such land exempt from the payment of revenue upon the demise of the present possessor, where the writing for such grant may expressly specify it to have been given for the life of the grantee only; or supposing no such specification to have been made in the writing, or the writing not to be forthcoming, or no writing to have been executed, where, from the nature and denomination of the grant, it shall be proved to be a life-tenure only, according to the ancient usages of the country.

Nor also heirs of present possessors.

Nor to entitle the heir to any such person to hold the lands exempt from the payment of revenue after his demise, supposing the writing for the grant not to specify whether it was to be considered hereditary or otherwise; unless it shall be proved, to the satisfaction of the Court, that the grant, from the nature and denomination of it, is hereditary according to the ancient usages of the country.

But upon the demise of the present possessor of any such grant, which may be adjudged not hereditary under this clause, if it shall appear that one or more successions, in virtue of whatever right, shall have taken place before the date of the Diwani, the lands shall not be subjected to the payment of revenue under the decree without the sanction of the [1] [Governor General in Council], to whom a copy of the proceedings and decree of the Court is to be transmitted, and to whom is reserved a power of declaring the lands subject to the payment of revenue or not, as may appear to [1] [him] proper.

Fifth.—The present possessors of lands now exempt from the payment of revenue, under such life-grants made previous to the Diwani, and declared by the preceding clause not to be hereditary, are prohibited from selling or otherwise transferring them, or mortgaging the revenue of them for a longer period than their own lives, and all such transfers and mortgages are declared illegal and void.

Present possessors prohibited from transferring or mortgaging grants.

It is to be understood, however, that if any such life-grants shall have been confirmed as hereditary tenures by Government, or by the officers of Government empowered so to confirm them, they are not to be liable to the

[1] The words "Governor General in Council" and "him," in section 2, are to be read as if the words "Local Government" and "it," respectively, were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. 2, in Vol. 4, p. 39.

payment of revenue on the death of the present possessor, and are to be excepted from the other rules contained in this and the preceding clause.

If doubts shall arise in any Court as to the competency of the authority of any officer of Government to confirm any such life-grant as hereditary, the Court is to suspend its judgment, and report the circumstances to the [1] [Governor General in Council], to whom a power is reserved of determining finally whether such officer possessed competent authority to confirm the grant as hereditary or not, and the Court, upon receiving the determination of the [1] [Governor General in Council] is to decide accordingly.

All grants made or confirmed since Diwan declared invalid.

3. *First*.—All grants for holding land exempt from the payment of revenue, which may have been made since the 12th August, 1765, and previous to the 1st December, 1790, corresponding with the 18th Aghau, 1197, Bengal era, the 10th Aghau, 1198, Fasli, the 18th Aghau, 1198, Wilaiyati, by any other authority than that of Government, and which may not have been confirmed by Government, or by any officer empowered to confirm them, are declared invalid.

Courts how to proceed in case of doubt of authority of officer confirming grant.

Second.—If doubts shall be entertained by any Court as to the competency of the authority of any officer to confirm any such grant, the Court is to suspend its judgment, and report the circumstances of the case to the [1] [Governor General in Council], to whom a power is reserved of determining finally whether the officer possessed competent authority to confirm the grant, or otherwise, and the Court, upon receiving the determination of the [1] [Governor General in Council] shall decide accordingly.

Exception in favour of grants made by chiefs of provincial councils.

Third.—The rule contained in clause first is not to be considered to extend to authorise the subjecting to the payment of revenue land held exempt from the payment of it under grants made previous to the commencement of the Bengal year 1178,[2] or the Fasli [3] or Wilaiyati [4] year 1179 (according as the land may be situated in Bengal, Bihar or Orissa), under the signature of the chiefs of the late provincial councils and the seals of those councils, agreeably to an authority vested in them by Government for granting land to be held exempt from the payment of revenue, the annual produce of which did not exceed one hundred rupees.

[1] The words "Governor General in Council" are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1908 (1 of 1908), Sch. 2, in Vol. I, p. 39.

[2] i.e., the 13th April, 1770.

[3] i.e., the 26th September, 1771.

[4] i.e., the 15th September, 1771.

of 1793.] (NON-BADSHAHI GRANTS) REGULATION, 1793.

(Sec. 4.)

Fourth.—Nor to authorise the subjecting to the payment of revenue any land the grants for which, whether for the life of the grantee or otherwise, were made previous to the commencement of the Bengal year 1178 [1] or the Fasli, [2] or Wilaiyati[3] year 1179 (according as the land may be situated in Bengal, Bihar or Orissa), where the quantity of land granted shall not exceed ten bighas, and the produce of it is *bond fide* appropriated as an endowment on temples, or to the maintenance of Brahmans, or other religious or charitable purposes.

And also of certain grants made for religious or charitable purposes.

The rule in this clause is declared to extend also to all grants of land whatever, not exceeding ten bighas, made previous to the Diwani, the produce of which may be now so appropriated.

4. This Regulation, as far as regards lands alienated previous to the 1st December, 1790, respects only the question whether they are liable to the payment of revenue or otherwise.

Disputes regarding proprietary right.

Every dispute or claim regarding the proprietary right in lands alienated previous to that date, and which, in conformity to this Regulation, may become subject to the payment of revenue, is to be considered as a matter of a private nature, to be determined by the Courts of Diwani Adalat, in the event of any dispute or claim arising respecting it between the grantee and the grantor, or their respective heirs or successors.

The grantees, or the present possessors, until dispossessed by a decree of the Diwani Adalat, are to be considered as the proprietors of the lands, with the same right of property therein as is declared to be vested in proprietors of estates or dependent taluks (according as the land may exceed or be less than one hundred bighas as specified in sections 6, 7 * * [4]) subject to the payment of revenue, and they are to execute engagements for the revenue with which their lands may be declared chargeable, either to Government, or to the proprietor or farmer of the estate in which the lands may be situated, or to the officer of Government (according as the revenue of the estate in which the land may be situated may be payable by the proprietor or a farmer, or collected khas), under the rules for the decennial settlement.

If by the decision of the Diwani Adalat the proprietary right in the land shall be transferred, the person succeeding there to is, in like manner, to be responsible for the payment of the revenue assessed or chargeable thereon.

i.e., the 18th April, 1770.

i.e., the 26th September, 1771.

i.e., the 15th September, 1771.

[The word and figures "and 21", in s. 4, which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.]

(Secs. 5-7.)

Effect of continuing proprietary right to grantee in possession.

5. By continuing the proprietary right in the land to the grantee or possessor, in the cases specified in the preceding section, instead of dispossessing him of the land altogether, agreeably to former usage, and assessing the land in the mode prescribed in the two following sections, a liberal provision will be left to him.

Where the grant may have been made before the Bengal year 1178 [1] or the Fasli [2] or Wilaiyati year 1179 [3] the proprietor will hold his land as an estate paying a fixed revenue of only half the amount assessed on other malguzari lands in the country ;

and, where the grant may have been made subsequent to the above-mentioned periods, he will hold the land as subject to the payment of the same revenue as other lands assessed with revenue, under the rules for the decennial settlement, as hereafter directed.

To whom revenue assessed on lands, not exceeding 100 bighas, alienated before 1st December, 1790, is to belong.

6. The revenue assessable under section 9 on land not exceeding one hundred bighas of the measurement that may prevail in the pargana wherein it may be situated, and whether lying in one village, or two or more villages, and that may have been alienated by any one grant made previous to the 1st December, 1790, and which may be adjudged or become liable to the payment of revenue, shall belong to the person responsible for the discharge of the revenue of the estate or dependent taluk in which the land may be situated, notwithstanding anything said in section 8, Regulation 1, 1793 [4];

and he shall not be liable to the payment of any additional revenue on account of the assessment which may be chargeable on such lands during the continuance of the engagement under which he may pay the revenue of such estate or dependent taluk, when the land may be so adjudged liable to the payment of revenue.

If the estate or dependent taluk shall be held khas, when the lands are decreed liable to the payment of revenue, the amount is to be collected by, and paid to, whomsoever the rents and revenue of the estate or taluk may be payable, until a settlement shall be concluded for the revenue of it, either with the proprietor or a farmer.

The land which may be so adjudged subject to the payment of the revenue is to be considered as a dependent taluk.

Revenue on lands exceeding 100

7. The revenue assessable under section 8 on land exceeding one hundred bighas of the measurement that may prevail in the pargana wherein it may

i.e., the 13th April, 1770.

i.e., the 26th September, 1771.

i.e., the 15th September, 1771.

The Bengal Permanent Settlement Regulation, 1793. It is printed ante, p. 431.

of 1793.] (NON-BADSHAHI GRANTS) REGULATION, 1793.

(Sec. 8.)

be situated, and whether lying in one village, or two or more villages, and alienated by any one grant made previous to the 1st December, 1790, and which may be adjudged or become liable to the payment of revenue, is declared to belong to Government.

bighas, alienated prior to 1st December, 1790, to belong to Government.

The lands specified in this section, which may be adjudged liable to the payment of revenue, are to be considered as independent taluks.

8. *First*.—The amount of the revenue payable from the lands specified in section 7 is to be adjusted according to the following rules :

Rules for assessment under section 7. If grant made previous to Bengal year 1178, or Fasli year 1179.

Second.—If the grant shall have been made previous to the Bengal year 1178 [1] or the Fasli [2] or Wilaiyati year 1179 [3] (according as the lands may be situated in Bengal, Bihar or Orissa), the revenue to be paid to Government shall be equal to one-half of the annual produce of the land, calculating according to the rates at which other lands in the pargana of a similar description may be assessed.

If any part of the land shall be uncultivated, the proprietor is to be required to bring it into cultivation, and to pay such rasador progressive increase, to be regulated with a reference to the reduced rate of the assessment on the cultivated land, as the Board of Revenue, [4] with the sanction of the [5] [Governor General in Council], may deem reasonable.

The produce of the land shall be ascertained by a survey and measurement, one-half of the expense attending which is to be defrayed by the proprietor, in the event of his agreeing to the jama required of him, and the other moiety by Government; or by such other mode of investigation as the Collector, [6] with the sanction of the Board of Revenue, [4] may judge advisable.

If the proprietor shall refuse to agree to the assessment, the lands are to be let in farm or held khas, under the rules prescribed in Regulation 8, 1793. [7]

If the proprietor shall agree to pay the revenue that may be required of him, the amount shall not be liable to any variation in future, but he and his heirs and successors shall hold the lands at such fixed revenue for ever.

Third.—If the grant shall have been made subsequent to the Bengal year 1178 [1] or to Fasli [2] or Wilaiyati year 1179 [3] (according as the lands may

If grant made after that time.

[1] i.e., the 13th April, 1770.

i.e., the 26th September, 1771.

i.e., the 15th September, 1771.

As to the exercise of functions of the references cited in the footnote on p. 75 of Vol. I.

[5] The words "Governor General in Council" of "Local Government" were substituted therefor—of 1903, Sch. 2, in Vol. I, p. 39.

[6] As to exercise of functions of Collectors by Settlement Regulation, 1822 (7 of 1822), s. 35, post

[7] The Fungal Decennial Settlement

of Revenue by other authorities, see the

in section 8, are to be read as if the words the Repealing and Amending Act, 1903 (1

ier officers, see the Bengal Land-revenue p. 678.

, 1793. It is printed ante, p. 456.

be situated in Bengal, Bihar or Orissa), the revenue or jama to be paid to Government from the land shall be assessed agreeably to the rules prescribed in Regulation 8, 1793 [1], for forming the settlement of estates paying revenue to Government, and the produce shall be ascertained, and the expense of the investigation defrayed, in the manner specified with regard to the lands in the preceding clause.

If the proprietor shall refuse to agree to the assessment, the lands are to be let in farm or held khas, under the rules for the decennial settlement.

If the proprietor shall agree to pay the revenue that may be required of him, the amount shall not be liable to any variation in future, but he and his heirs and successors shall hold the land at such fixed revenue for ever.

Rule for fixing revenue on land specified in section 6.

9. The rules in the preceding section are to be held applicable to the lands specified in section 6; with this difference, that the proprietor, farmer, dependent talukdar or officer of Government to whom the revenue may be payable shall ascertain the produce of the land without subjecting the grantee to any expense, and submit the accounts of it to the Collector, [2] who shall fix the revenue to be paid from the lands in perpetuity, reporting the amount for the confirmation of the Board of Revenue [3] who are empowered, in cases in which it shall appear to them proper, to increase or reduce the amount.

If the proprietor shall agree to pay the revenue required of him, he and his heirs and successors shall hold the lands as a dependent taluk, subject to the payment of such fixed revenue for ever.

Grants made since 1st December, 1790, declared void.

[4] 10. All grants for holding land exempt from the payment of revenue whether exceeding or under one hundred bighas, that have been made since the 1st December, 1790, or that may be hereafter made, by any other authority than that of the [5] [Governor General in Council,] are declared null and void, and no length of possession shall be hereafter considered to give validity to any such grant, either with regard to the property in the soil or the rents of it.

And every person who now possesses, or may be entitled to, the proprietary right in any estate or dependent taluk, or who now holds or may hereafter hold any estate or dependent taluk in farm of Government, or of the pro-

[1] The Bengal Decennial Settlement Regulation, 1793. It is printed *ante*, p. 456.

[2] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 578.

[3] As to the exercise of functions of the Board of Revenue by other authorities, see the references cited in the footnote on p. 75 of Vol. I.

[4] For a saving of s. 10, see the Bengal Land-revenue Settlement Regulation, 1825 (9 of 1825), s. 8, *post*, p. 584.

[5] The words "Governor General in Council" in section 10 are to be read as if the words "Governor General in Council or the Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. 2, in Vol. I, p. 39.

of 1793.] (NON-BADSHAHİ GRANTS) REGULATION, 1793.

(Sec. 11.)

proprietor, or any other person, and every officer of Government appointed to make the collections from any estate or taluk held khas, is authorized and required to collect the rents from such lands at the rates of the pargana, and to dispossess the grantee of the proprietary right in the land, and to re-annex it to the estate or taluk in which it may be situated, without making previous application to a Court of Judicature, or sending previous or subsequent notice of the dispossession or annexation to any officer of Government; [1]

nor shall any such proprietor, farmer or dependent talukdar be liable to an increase of assessment on account of such grants which he may resume and annul, during the term of the engagements that he may be under for the payment of the revenue of such estate or taluk when the grant may be so resumed and annulled.

The managers of the estates of disqualified proprietors, and of joint-undivided estates, are authorized and required to exercise, on behalf of the proprietors, the powers vested in proprietors by this section.

11. Proprietors or farmers of land, or dependent talukdars, who may deem themselves entitled to the revenue of any land of the description of that specified in section 6 situated in their respective estates, farms or taluks, are to institute a suit for the recovery of it in the Court of Diwani Adalat.

How proprietors and farmers to recover revenue on lands specified in section 6.

Any proprietor or farmer of land, or dependent talukdar, or other person, subjecting such lands to the payment of revenue, without having previously obtained a judicial decree for that purpose, shall be liable to be sued for damages by the parties injured.

Where estates or dependent taluks may be held khas, the right of suing for the recovery of the revenue from the lands specified in section 6 is to be considered as vested in the party whom the collections from the estate or taluk may be payable.

If the estate or taluk be held khas by Government, the tahsildar or other officer is to sue for the revenue chargeable on such lands in the room of the proprietor, but under the directions of the Collector [2].

12 to 14. [Suits by Collectors for the recovery of invalid lakhiraj.] Rep. by the Bengal Land-revenue Assessor (Resumed Lands) Regulation, 1819 (2 of 1819).

[1] So much of s. 10 as authorises and dependent taluks (in cases in which grants for have been made subsequent to the 1st December, 1790,) "of their own authority to collect the rents of such land and to dispossess the grantee it to the estate or taluk in which it may Bent Act, 1859 (10 of 1859), s. 28, printed ante.

[2] As to the exercise of functions of (revenue Settlement Regulation, 1822 (7 of 1822)

quires proprietors and farmers of estates and ling land exempt from the payment of revenue of the proprietary right in the land and to re-situate" has been repealed by the Bengal 190.

ors by other officers, see the Bengal Land- 35, post, p. 573.

(Sees. 15-17.)

Suits by or
against Gov-
ernment.

15. The Collectors [1] of the revenue are to defend all suits that may be instituted against Government, by any individual claiming a right to hold lands exempt from the payment of public revenue; and such suits, and the suits which the Board of Revenue [2] may direct the Collector [1] to institute, are to be defended and prosecuted by the vakil of Government under the instructions of the Collector [1];

and in the event of Government being cast, either wholly or in part, or if the Collector [1] shall be dissatisfied with the decree in any respect, all the rules contained in section 30, Regulation 14, 1793, [3] and the other sections in that Regulation respecting decisions given against a Collector in any Zila Court, in suits instituted against him by any proprietor or farmer of land, for sums of money demanded or actually received by him as arrears of revenue, are to be held applicable to such decree; with this difference, that the suit, from the commencement of it, is to be defended or carried on at the expense of Government, and in the event of the Board of Revenue [2] not deeming it proper to order an appeal against the decision of the Zila Court to be preferred to the Provincial Court of Appeal, or against the decision of the Provincial Court to the Sadar Diwani Adalat, in the event of their ordering the cause to be appealed to the Provincial Court, and of its being given against them therein, they are to report their reasons, in both cases, for not preferring the appeal, to the [4] [Governor General in Council], who will direct the cause to be appealed, or not, in either case as may appear to [5] [him] proper.

16. [Courts to award costs in cases of groundless prosecution.] *Rep. by the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819 (2 of 1819).*

Grants forged
or altered in
any respect or
antedated,
declared void.

17. If it shall appear to any Court of Judicature during the course of a trial that a grant for land to be held exempt from the payment of revenue, dated prior to the 1st December, 1790, has been forged, or that the name of the original grantee has been erased and any other name substituted, or that any name not in the original grant has been inserted, or that the denomination

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 578.

[2] As to the exercise of functions of the Board of Revenue by other authorities, see the references cited in the footnote on p. 75 of Vol. I.

[3] Ben. Reg. 14 of 1793 was repealed by the Repealing Act, 1874 (16 of 1874); but this reference is saved by the proviso to that Act.

[4] The words "Governor General in Council" in section 15 are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. 2, in Vol. I, p. 39.

[5] The word "him" in section 15 is to be read as if the word "it" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. 2, in Vol. I, p. 39.

of 1793.] (NON-BADSHAHI GRANTS) REGULATION, 1793.

(Secs. 20-24.)

of the tenure in the original grant has been erased or altered, or that the date of the grant has been changed, or that the grant has been antedated, the grant shall be adjudged null and void, as far as regards the exemption of the land from the payment of revenue, and the land shall be subjected to the payment of revenue accordingly.

18. [*Persons concerned in fraud liable to criminal prosecution.*] Rep. by the Repealing Act, 1874 (16 of 1874)

19. [*Revenue to be paid from date of first decree for resumption.*] Rep. by the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819 (2 of 1819).

20. Grants of land, which from the terms of the grant or the nature of the tenure are hereditary, and are declared valid by this Regulation, or which have been or may be confirmed by the British Government, or any of its officers possessing competent authority to confirm them, are declared transferable by gift, sale or otherwise

Transfer of grants.

and all persons succeeding to such grants, by whatever mode, are required to register their names in the office of the Collector [1] within six months after they may succeed to the grant.

But all such purchases are to be considered as made at the risk of the purchaser; and in the event of the grant not proving to be hereditary, or not to have been made or confirmed by the British Government, or its officers possessing competent authority, the transfer is not to preclude the land from being subjected to the payment of revenue under this Regulation.

21, 22. [*Payment of revenue, where to be made; register of lands held exempt from revenue prior to 1st December, 1790.*] Rep. by the Land Registration Act, 1876 (Ben. Act 7 of 1876).

23. [*Form for periodical Register.*] Rep. by the Repealing Act, 1868 (8 of 1868).

24. All persons actually holding lands exempt from the payment of public revenue, whether exceeding or under one hundred bighas, in virtue of grants made previous to the 1st December, 1790, and whether made or confirmed by the Government of the country for the time being, or any other authority, shall be allowed one year from the date of the publication prescribed in the following section to register the required particulars respecting their grants in the office of the Collector [1] of the revenue of the zila in which the lands may be situated.

Time for registry of grants.

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 573.

(Sect. 26-28.)

25. [*Publication to be made, requiring all persons to register grants.*]
Rep. by the Repealing and Amending Act, 1903 (1 of 1903).

Lands not
registered
within pre-
scribed time.

26. If any person in possession of any such grant of land now held exempt from the payment of revenue shall omit to register it by the time prescribed in the publication, together with as accurate a detail of the particulars thereby required as he may be able to furnish, the land included in the grant shall, by such omission, become subject to the payment of revenue, in the same manner as if it had been adjudged liable to the payment of revenue by a final decree of a Court of Judicature, and the Collector, [1] if the land shall exceed one hundred bighas, shall proceed to assess the lands accordingly; and, if it shall be under one hundred bighas, the party to whom the revenue of the land may be payable under section 6 is empowered to assess the lands as therein directed.

The Governor General in Council, however, reserves to himself the power of admitting any grant upon the register after the expiration of the prescribed time, in the event of the possessor of the land showing good and sufficient cause, to his satisfaction, for not having registered it within the limited period, and the Board of Revenue [2] are to report to the Governor General in Council every case in which persons who may have omitted to register their grants as required may appear to them entitled to have their grants admitted upon the register.

Grants not
registered
within pre-
scribed period,
etc., invalid.

27. After the expiration of the period limited for registering grants, all grants not registered within the prescribed time, and which may not be subsequently admitted on the register by the Governor General in Council, are declared invalid, as far as regards the exemption from the payment of revenue, and the land shall be assessed with revenue as directed in section 26.

Effect of
registry of
lands.

28. It is expressly declared, however, that the registry of grants under this Regulation is not to be considered as an admission of the right of the person in whose name they may be registered to the property in the soil, or of his title to hold the lands exempt from the payment of revenue.

Any person will be at liberty to sue him in the Diwani Adalat for the former, and he will be liable to be sued for the recovery of the latter by the

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, post, p. 573.

[2] As to the exercise of functions of the Board of Revenue by other authorities, see the references cited in the footnote on p. 75 of Vol. I.

of 1793.] (NON-BADSHAHI GRANTS) REGULATION, 1793.

(Secs. 47-49.)

Collector [1] with the sanction of the Board of Revenue, [2] in the event of it appearing to that Board that the lands are liable to the payment of revenue.

29 to 34. [*Preparation of registers ; counterpart registers ; entries regarding exempted lands and documents respecting same.*] Rep. by the Land Registration Act, 1876 (Ben. Act 7 of 1876).

35. [*How separations and annexations of exempted lands are to be notified to the Courts.*] Rep. by the Valuing and Amending Act, 1903 (1 of 1903).

36 to 46. [*Registers of intermediate resummptions, and periodical registers ; correction of errors in same ; registry of disputed grants ; liability of holders of grants to furnish information to whom copies of periodical registers are to be sent ; penalty for receiving bribes in connection with the registry of grants.*] Rep. by the Land Registration Act, 1876 (Ben. Act 7 of 1876).

47. All the rules in this Regulation respecting lands now held, or that may be claimed to be held, exempt from the payment of revenue, under life-grants made previous to the date of the Company's accession to the Diwani, are to be considered equally applicable to grants made previous to that date for a term only.

Rules respecting life-grants applicable to grants for a term.

48. No part of this Regulation is to be considered to annul any grants for holding land exempt from the payment of revenue, made or confirmed by the late superintendents of the bazi-zamin daftar in Bengal, in virtue of the powers vested in them.

Saving of grants made or confirmed by late superintendents of the bazi-zamin daftar, and of badshahi grants.

49. Nor to extend to jagir, altamgha, mudadmash, aima or other grants of land termed badshahi or royal, and held, or stated to be held, under a royal farman.

The rules applicable to such grants are contained in Regulation 37, 1793.[3]

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822). s. 35, *post*, p. 578.

[2] As to the exercise of functions of the Board of Revenue by other authorities, see the references cited in the footnote on p. 75 of Vol. I.

[3] The Bengal Revenue-free Lands (Badshahi Grants) Regulation, 1793. It is printed *post*, p. 485.

THE BENGAL REVENUE-FREE LANDS (BADSHAHI GRANTS) REGULATION, 1793

(REGULATION 37 of 1793).

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[1] This Table has been newly added.

of 1793.]

(BADSHAHI GRANTS) REGULATION, 1793.

THE BENGAL REVENUE-FREE LANDS (BADSHAHI GRANTS) REGULATION, 1793 [1]

(REGULATION 37 OF 1793).

[1st May, 1793.]

A Regulation for re-enacting, with modifications, the rules passed on the 23rd April, 1788, and subsequent dates, for trying the validity of the titles of persons holding or claiming a right to hold altamgha, jagir and other lands exempt from the payment of public revenue, under grants termed badshahi or royal, and for determining when certain grants of that description shall be considered to have expired; and for fixing the amount of the public revenue to be assessed upon the lands the grants for which may expire or be adjudged invalid.

1. By the ancient law of the country the ruling power is entitled to a certain proportion of the produce of every bigha of land, unless it transfers its right thereto for a term or in perpetuity. Preamble.

[1] SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), printed in Vol. I, p. 18.

LOCAL EXTENT.—This Regulation was declared, by the Cuttack Land-revenue Regulation, 1805 (12 of 1805), s. 25 (printed *post*, p. 508), to be in force, with modifications, in the district of Cuttack.

~~The Regulation has been declared, by the Law, Local Extent Act, 1874 (15 of 1874), section 3 (printed, General Acts, 1888-76, Ed. 1898, p. 234), to be in force throughout Bengal, except as regards the Scheduled Districts.~~

~~The Regulation has been declared~~ ~~the Scheduled District~~
(14 of 1874), section 3, to be in force in the following Scheduled District, namely:—

West Jalpaiguri, in the Jalpaiguri District—~~see~~ Vol. V, Part V, B (a).

The Regulation is in force in the Southal Parganas—*see* Vol. V, Part VI, B (c); but its application in the other de-regulationised tracts in Bengal is barred as follows, namely:—

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), section 3 (2), printed in Vol. I, p. 257, and

OTHER ENACTMENTS.—The rules prescribed in Regulations 19 and 37 of 1793, for determining the validity of grants for holding lands exempt from the payment of the public revenue have been declared applicable to grants for holding lands under mukarrari or other tenures limiting the demand of Government—*see* the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819 (3 of 1819), s. 4, *post*, p. 520.

Further regulations dealing with Revenue-free lands are the Bengal Revenue-free Lands (Non-Badshahi Grants) Regulation, 1793 (19 of 1793), printed *ante*, p. 463, and the Bengal Revenue-free Lands Regulation, 1800 (8 of 1800), the Bengal Land-revenue Settlement (Resumed Kanungos and Revenue-free Lands) Regulation, 1825 (13 of 1825), and the Bengal Revenue-free Lands Regulation, 1825 (14 of 1825), printed *post*.

AMENDMENTS.—Reg. 13 of 1825 modified Reg. 37 of 1793 (*see* s. 5 of the former Regulation, *post*, p. 568); and Reg. 14 of 1825 modifies Regs. 19 and 37 of 1793 (*see* s. 1 of the former Regulation, *post*, p. 590).

As a necessary consequence of this law every grant or alienation of Government's proportion of the produce of lands without its sanction was considered null and void.

Had the validity of such grants or alienations been admitted it is obvious that the public revenue would have been liable to gradual diminution.

Under the Native Government grants were occasionally made of the Government's share of the produce of lands, for the support of the families of persons who had performed public services, for religious or charitable purposes, for maintaining troops and for other services.

The British Government continued to the grantees or their heirs such of these grants as were hereditary, and were made before the date of the Company's accession to the Diwani, provided the grantees or their heirs had obtained possession previous to that date; but those grants which were for life only have been invariably considered as resumable on the death of the grantees.

No complete register of these grants having been formed on the Company's accession to the Diwani, nor subsequent to that period, many persons have retained possession of lands under fabricated or antedated grants, or have succeeded to life-grants on the demise of the original grantee or former possessor, without the sanction of Government.

The Governor General in Council deeming it incumbent on him to resume the public dues from lands held under invalid tenures, as well as the revenue of all lands the grants for which might expire, and as the proprietors of estates were not entitled to collect such of the public dues from the lands included in their estates as Government had judged it advisable to transfer to individuals, or to resume those which had been alienated or were appropriated without authority, the amount of the revenue of the lands having in both cases been excluded from the assets on which the settlement was to be concluded, it was made a rule at the time of forming the decennial settlement, and which has been re-enacted by section 36, Regulation 8, 1793, [1] that the jama assessed upon the estates of individuals was to be considered as exclusive and independent of all existing lakhiraj lands, whether exempted from the khiraj or public revenue, with or without due authority;

and by the third clause of the seventh article of the Proclamation contained in Regulation 1, 1793, [2] which specifies the conditions under which

[1] The Bengal Decennial Settlement Regulation, 1793. It is printed *ante*, p. 456.

[2] The Bengal Permanent Settlement Regulation, 1793. It is printed *ante*, p. 431.

of 1793.]

(BADSHAHI GRANTS) REGULATION, 1793.

(Sec. 2.)

Government declared the decennial settlement permanent, it is expressly stipulated that the Governor General in Council will impose such assessment as he may deem equitable on all lands at present alienated and paying no public revenue which have been or may be proved to be held under illegal or invalid titles.

The Governor General in Council, however, at the same time that he is desirous of recovering the public dues from lands held under invalid tenures, is equally solicitous that persons holding lands under grants that are declared valid should be secured in the quiet possession and enjoyment of them.

With this view, and to obviate all injustice or extortion in the inquiry into the titles of persons possessing lands under such grants, he has resolved that all claims of the public for the resumption of such grants (provided the grantees or persons in possession register their grants as required in this Regulation) shall be tried in the Courts of Judicature, that no such grants may be resumed until the title of the grantee or present possessor shall have been adjudged invalid by a final judicial decree.

Upon the above grounds, and with a view to facilitate the resumption of invalid grants, as well as to prevent any grants being hereafter made without the authority of Government, and further that Government and its officers may at all times have in their possession a correct register of the lands in the several zilas held exempt from the payment of revenue under badshahi grants, the following rules, containing the rules passed on the 23rd April, 1788, and subsequent dates, with modifications, have been enacted.

2. *First*.—Altamgha, jagir, aima, madadmash or other badshahi grants for holding land exempt from the payment of revenue, made previous to the 12th August, 1765, the date of the Company's accession to the Diwani, shall be deemed valid, provided the grantee actually and *bona fide* obtained possession of the land so granted previous to that date and the grant shall not have been subsequently resumed by the officers or the orders of Government.

Badshahi grants made before Diwani.

If it shall be proved to the satisfaction of the Court that the grantee did not obtain possession of the land so granted previous to the 12th August, 1765, or that he did obtain possession of it prior to that date, but that it has been since resumed by the officers or the orders of Government, the grant shall not be deemed valid.

Second.—In the event, however, of claim being preferred by any person to hold land exempt from the payment of revenue, under a badshahi grant made previous to the date of the Company's accession to the Diwani,

Procedure in case of doubts as to authority of officers

(Sec. 2.)

having re-
grante, and on it being proved to the satisfaction of the Court in which the suit may be instituted in the first instance, or to which it may be appealed, that the grantee held the land exempt from the payment of revenue, but that it was subjected to the payment of revenue posterior thereto by an officer of Government, and the Court shall entertain doubts as to the competency of such officer, under the powers vested in him, to resume the grant and subject the lands to the payment of revenue, the Court shall suspend its judgment and report the circumstances to the [1] [Governor General in Council], to whom a power is reserved of determining whether such officer was or was not competent to resume the grant; and, upon receiving the determination of the [1] [Governor General in Council], the Court is to decide accordingly.

No such claim, however, to hold exempt from the payment of revenue, land that may have been subjected to the payment of revenue for the twelve years preceding the date on which the claim may be instituted, shall be heard by any Zila or City Court, unless the claimant can show good and sufficient cause for not having preferred the claim to a competent authority within the twelve years * * * * *

Persons not
being original
grantees not
entitled to
hold lands
free;

Third.—But no part of the two preceding clauses is to be construed to empower the Courts to adjudge any person, not being the original grantee entitled to hold land paying revenue to Government, exempt from the payment of revenue, under a jagir or other grant made previous to the Company's accession to the Diwani, where the grant may expressly specify it to have been given for the life of the grantee only; or, supposing no such specification to have been made in the grant, or the grant not to be forthcoming, where the grant, from the nature and denomination of it, shall be proved to be a life-tenure only, according to the ancient usages of the country.

Nor also heirs
of persons
now possess-
ing exempted
lands under
life-grants
made previous
to Diwani.

Fourth.—Nor to entitle the heirs of any person now holding lands exempt from the payment of public revenue under a jagir or other badshahi life-grant made previous to the Diwani, to succeed to and hold such land exempt from the payment of revenue upon the demise of the present possessor; where the grant may expressly specify it to have been given for the life of the grantee only, or supposing no such specification to have been made in the grant, or the grant not to be forthcoming, where from the nature and denomination

[1] The words "Governor General in Council" are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1908 (1 of 1908), Sch. 2, in Vol. I, p. 49.

[2] The words and figures "and proceeded in it as required by 14, Regulation 2, 1793", which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

of 1793.]

(BADSHAHI GRANTS) REGULATION, 1793.

(Secs. 2-5.)

of the grant it shall be proved to be a life-tenure only, according to the ancient usages of the country.

Fifth.—The present possessors of lands now exempt from the payment of revenue under such jagir or other life-grants made previous to the Diwani and declared by the preceding clause not to be hereditary, are prohibited from selling or otherwise transferring them, or mortgaging the revenue of the lands for a longer period than their own lives, and all such transfers and mortgages which have been or may be made are declared illegal and void.

Present possessors not to transfer or mortgage grants.

3. *First.*—All badshahi grants for holding land exempt from the payment of revenue, which may have been made since the 12th August, 1765, by any other authority than that of Government, and which may not have been confirmed by Government, or by any officer empowered to confirm them, are declared invalid.

Certain grants made or confirmed since Diwani declared invalid.

Second.—If doubts shall be entertained by any Court as to the competency of the authority of any officer to confirm any such grant, the Court is to suspend its judgment and report the circumstances of the case to the [1] [Governor General in Council], to whom a power is reserved of determining finally whether the officer possessed competent authority to confirm the grant, or otherwise, and the Court, upon receiving the determination of the [1] [Governor General in Council], shall decide accordingly.

Procedure in cases of doubt of authority of officer confirming grant.

4. It is to be understood that this Regulation respects only the Government proportion of the revenue arising from lands held or claimed to be held under badshahi grants, and whether Government is entitled to resume or retain such revenue or otherwise.

Questions regarding proprietary right to be determined in Diwani Adalat.

Every dispute or claim regarding the zamindari or proprietary right in lands included in any grant is to be considered as a matter of a private nature between the contending parties, and is to be determined in the Diwani Adalat.

5. When a jagir or other life-grant shall escheat [2] to Government, the Collector [3] is immediately to attach the revenue of the lands and report the circumstance to the Board of Revenue, [4] who are to obtain the orders of the [1] [Governor General in Council] regarding the resumption of the grant.

Collectors to attach revenue of lands in escheated grants.

[1] The words "Governor General in Council" are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1908 (1 of 1908), Sec. 2, in Vol. I, p. 40.

[2] As to the duties of the Board of Revenue in respect of escheats, see the Bengal Charitable Endowments, Public Buildings and Escheats Regulation, 1810 (19 of 1810), s. 7, printed in Vol. IV. of this Code.

[3] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, post, p. 523.

[4] As to the exercise of functions of the Board of Revenue by other authorities, see the references cited in the footnote on p. 75 of Vol. I.

(Secs. 6-10.)

Assessment of
lands included
in resumed
grants.

6. When any badshahi grant shall be resumed or expire, or escheat [1] to Government, the revenue to be paid to Government from the lands included in it shall be assessed, and the settlement made in perpetuity, agreeably to the rules for the decennial settlement contained in Regulation 8, 1793, [2] with the person possessing the zamindari or proprietary right in the lands, whoever he may be.

If the proprietor shall refuse to pay the jama demanded of him, the land shall be held khas or let in farm, as directed in that Regulation.

7-9. [Suits by Collectors for the recovery of invalid lakhiraj.] Rep. by the Bengal Land-revenue Assessment Regulation, 1819 (2 of 1819).

Suits against
Government
by persons
claiming to
hold lands
paying reve-
nue exempt
from revenue
under bad-
shahi grants.

10. Any person having a claim to hold lands paying revenue exempt from the payment of revenue under a badshahi grant must institute his claim against Government, who alone can be the defendant in such suits, in the Diwani Adalat of the zila, in the same manner as in cases where individuals may claim a right to hold lands paying revenue exempt from the payment of revenue under grants not of the description of those termed badshahi, in virtue of Regulation 19, 1793. [3]

The Collectors [4] of the revenue are to defend all such suits as may be instituted against Government, and such suits, and the suits which the Board of Revenue [5] may direct the Collector [4] to institute, are to be defended or prosecuted by the vakil of Government, under the instructions of the Collector [4];

and in the event of Government being cast, either wholly or in part, or if the Collector [4] shall be dissatisfied with the decree in any respect, all the rules contained in section 30, Regulation 14, 1793, [6] and the other sections in that Regulation respecting decisions given against a Collector in any Zila Court, in suits instituted against him by any proprietor or farmer of land, for sums of money demanded or actually received by him as arrears of revenue, are to be held applicable to such decrees, with this difference, that the suit, from the commencement of it, is to be defended or carried on at the expense of Government, and in the event of the Board of Revenue [5] not

[1] As to the duties of the Board of Revenue in respect of escheats, see the Bengal Charitable Endowments, Public Buildings and Escheats Regulation, 1810 (19 of 1810), s. 7, printed in Vol IV of this Code.

[2] The Bengal Decennial Settlement Regulation, 1793. It is printed ante, p. 456.

[3] The Bengal Revenue-free Lands (Non-Badshahi Grants) Regulation, 1793. It is printed ante, p. 463.

[4] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1-22 (7 of 1822), s. 35, post, p. 573.

[5] As to the exercise of functions of the Board of Revenue by other authorities, see the references cited in the footnote on p. 75 of Vol. I.

[6] Reg. 14 of 1793 has been repealed by the Repealing Act, 1874 (16 of 1874), but this reference is saved by the proviso to that Act.

of 1793.]

(BADSHAHI GRANTS) REGULATION, 1793.

(Secs. 12-15.)

deeming it proper to order an appeal from the decision of the Zila Court to be preferred * * * [1] to the Sadar Diwani Adalat, * * * [2] they are to report their reasons * * [3] for not preferring the appeal to the [4] [Governor General in Council], who will direct the cause to be appealed or not, in either case, as may appear to [4] [him] proper.

11. *[Courts to award costs in case of groundless prosecution.] Rep. by the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819 (2 of 1819).*

12. If it shall appear to any Court of Judicature, during the course of a trial, that a grant has been forged, or that the name of the original grantee has been erased and any other name substituted, or that any name not in the original grant has been inserted, or that the denomination or the terms of the tenure in the original grant have been erased or altered, or that date of the grant has been changed or that the grant has been antedated, the grant shall be adjudged null and void.

Grants forged or altered in any respect, or antedated, declared void.

13. *[Persons concerned in frauds liable to criminal prosecution.] Rep. by the Repealing Act, 1874 (16 of 1874).*

14. *[Revenue to be paid from date of first decree of resumption.] Rep. by the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819 (2 of 1819).*

15. Altamgha, aima and madadmash grants are to be considered as hereditary tenures.

Transfer of grants.

These and other grants, which from the terms or nature of them may be hereditary and are declared valid by this Regulation, or which have been or may be confirmed by the British Government, or any of its officers possessing competent authority to confirm them, are declared transferable by gift, sale or otherwise, and all persons succeeding to such grants, by whatever mode, are required to register their names in the office of the Collector, within six months after they may succeed to the grant.

But all such purchases are to be considered as made at the risk of the purchaser; and in the event of the grant not proving to be hereditary, or not to have been made or confirmed by the British Government, or its officers possessing competent authority, the transfer is not to preclude the land from being subjected to the payment of revenue under this Regulation.

[1] The words "to the Provincial Court of Appeal, or from the decision of the Provincial Court," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[2] The words "in the event of their ordering the cause to be appealed to the Provincial Court, and of its being given against them therein," which were repealed by the same Act, are omitted.

[3] The words "in both cases," which were repealed by the same Act, are omitted.

[4] The words "Governor-General in Council" and "him" in section 10 are to be read as if the words "Local Government" and "it", respectively, were substituted therefor—see the Repealing and Amending Act, 1908 (1 of 1908), Sch. 2, in Vol. I, p. 40.

(Secs. 19-23.)

Jagirs are to be considered as life-tenures only, and with all other life-tenures are to expire with the life of the grantee, unless otherwise expressed in the grant.

16 to 18. [*Record of lands which may become liable to, or exempt from, the payment of revenue ; register of badshahi grants ; form of periodical register.*] Rep. by the Land Registration Act, 1876 (Ben. Act 7 of 1876).

Time for
registry.

19. All persons actually holding lands exempt from the payment of public revenue under badshahi grants, and whether made or confirmed by the Government of the country for the time being, or by whatever authority, shall be allowed one year, from the date of the publication prescribed in the following section, to register the required particulars respecting their grants in the office of the Collector of the revenue of the zila in which the lands may be situated.

20. [*Publication to be made, requiring all persons to register grants.*] Rep. by the Repealing and Amending Act, 1903 (1 of 1903).

Grants not
registered
within pre-
scribed time
liable to
resumption.

21. If any person in possession of any such grant that may be now in force shall omit to register it by the time prescribed in the publication, together with as accurate a detail of the particulars thereby required as he may be able to furnish, the grant shall, by such omission, become subject to resumption, and the lands shall become liable to the payment of revenue to Government.

The Governor General in Council, however, reserves to himself the power of admitting any grant upon the register after the expiration of the prescribed time, in the event of the possessor showing good and sufficient cause, to his satisfaction, for not having registered it within the limited period, and the Board of Revenue are to report to the Governor General in Council every case in which persons who may have omitted to register their grants as required may appear to them entitled to have their grants admitted upon the register.

Grants not
registered
considered
forfeited.

22. After the expiration of the period limited for registering grants, all grants not registered within the prescribed time, and which may not be subsequently admitted on the register by the Governor General in Council, are declared forfeited, and the lands shall be assessed with revenue, agreeably to the rules prescribed for the decennial settlement.

Effect of :
gistry of
grants.

23. It is expressly declared, however, that the registry of a grant under this Regulation is not to be considered as an admission of the right of the person in whose name it may be registered to the property in the soil, nor of the validity of his grant.

Any person will be at liberty to sue in the Diwani Adalat for the former, and he will be liable to be sued for the resumption of the grant by the

of 1793.]

(BADSHAHI GRANTS) REGULATION, 1793.

(Sec. 42.)

Collector [1] with the sanction of the Board of Revenue [2] in the event of it appearing to that Board that the grant is invalid.

24. [Preparation of register upon expiration of period limited for registry of grants.] Rep. by the Land Registration Act, 1876 (Ben. Act 7 of 1876).

25. [Preparation of second periodical register.] Rep. by the Repealing Act, 1874 (16 of 1874).

26 to 29. [Counterpart register by whom to be kept, in what native languages; manner of recording resumptions, etc.; documents respecting grants by whom to be furnished.] Rep. by the Land Registration Act, 1876 (Ben. Act 7 of 1876).

30. [Separations and annexations of exempted lands how notified to Courts.] Rep. by the Repealing and Amending Act, 1903 (1 of 1903).

31 to 33. [Register of intermediate occurrences not to fall into arrear; counterpart of same by whom to be kept; manner of correcting errors in registers.] Rep. by the Land Registration Act, 1876 (Ben. Act 7 of 1876).

34. [Manner of correcting errors in counterpart registers.] Rep. by the Repealing Act, 1874 (16 of 1874).

35 to 41. [Registry in case of proprietary right being under litigation; penalty for not furnishing information; to whom copies of periodical registers are to be sent; registers to be carefully preserved; from what materials the periodical register commencing with 1207 and subsequent registers, are to be formed; penalty for receiving bribes.] Rep. by the Land Registration Act, 1876 (Ben. Act 7 of 1876).

42. No part of this Regulation is to be considered to extend to lands held, or stated to be held, exempt from the payment of public revenue under grants not being of the description of those termed badshahi or royal.

Regulation
not to extend
to grants not
badshahi.

The rules applicable to such grants are contained in Regulation 19, 1793. [3]

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 578.

[2] As to the exercise of functions of the Board of Revenue by other authorities, see the references cited in the footnote on p. 75 of Vol. I.

[3] The Bengal Revenue-free Lands (Non-Badshahi Grants) Regulation, 1793. It is printed *ante*, p. 468.

THE BENGAL REVENUE-FREE LANDS REGULATION,

1800 [1]

(REGULATION 8 OF 1800).

[3rd July, 1800.]

A Regulation for * * * [2] registers of estates paying revenue, and lands held exempt from the payment of revenue.

1 to 18. [*Formation of pargana registers; divisions in same; period for preparing same; forms of register; materials for preparing same; repeal of certain enactments; explanation of the term "estate"; insertion in registers of alterations in annual revenue; copies of registers to be sent to Board of Revenue; new forms of registers; establishment.*] Rep. by the Land Registration Act, 1876 (Ben. Act 7 of 1876).

Extension of period for registration of revenue-free grants, and assessment thereafter of all unregistered lands.

19. By section 26, Regulation 19, 1793, [3] section 21, Regulation 37, 1793, [4] and the corresponding sections in Regulations 41 [5] and 42, [5] 1795, all lands held exempt from the payment of revenue, which the holders may have omitted to register by the time prescribed in the publication therein referred to, are become subject to the payment of revenue, unless sufficient

[1] SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), printed in Vol. I, p. 19.

LOCAL EXTENT.—This Regulation has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), section 6 (printed, General Acts, 1869-76, Ed. 1893, p. 434), to be in force throughout Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), section 3, to be in force in the following Scheduled Districts, namely:—

the Hazaribagh, Ranchi, Palaman and Manbhum Districts, and Pargana Dhalbhum in the Singhbhum District, in the Chota Nagpur Division—see Vol. V, B (b). *vol. V*

It is in force in the Sonthal Parganas—see ib., Part B (c), but its application in the other de-regulationised tracts in Bengal is barred as follows, namely:—

in the Angul District, by the Angul District on, 1894 (1 of 1894), section 3 (2), printed in Vol. I, p. 257, 1

in the Chittoor District, by the Chittoor District, 1894 (1 of 1894), section 3 (2), printed in Vol. I, p. 257, 1

in the Coimbatore District, by the Coimbatore District, 1894 (1 of 1894), section 3 (2), printed in Vol. I, p. 257, 1

REPRINT.—Section 19 of this Regulation is reprinted in the Land Registration Manual, 1889, p. 1.

[2] The words "preparing a general pargana register of lands, and for certain alterations in the prescribed", which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

[3] The Bengal Revenue-free Lands (Non-Badahahi Grants) Regulation, 1793. Section 26 of the Regulation is printed *ante*, p. 4-2.

[4] The Bengal Revenue-free Lands (Badahahi Grants) Regulation, 1793. Section 21 of the Regulation is printed *ante*, p. 492.

[5] Regulations 41 and 42 of 1795 were repealed by the United Provinces Land-revenue Act, 1873 (19 of 1873).

of 1800.]

REGULATION, 1800.

(Sec. 19.)

cause be shown, to the satisfaction of the Governor General in Council, for their not having been registered within the limited period.

It appearing, however, that the publications directed in section 25, Regulation 19, 1793, [1] section 20, Regulation 37, 1793, [2] and the corresponding sections in Regulations 41 [3] and 42, [3] 1795, have not in every instance been made as therein directed (namely, the publication respecting lands held under badshahi grants in the principal cutcherry of the holders of such grants; and respecting other exempted lands in the principal cutcherry of every proprietor and farmer of land paying revenue to Government and of every Native Collector in lands held khas by Government; or when the estate, farm or khas land may consist of two or more whole parganas, or portions of parganas, in the principal cutcherry of each pargana or portion of a pargana comprised in such estate, farm or khas land), the Collectors are hereby further directed, immediately on the receipt of this Regulation, to ascertain whether the publications above specified have been duly made as prescribed throughout their respective Collectorships; and, if not, they are to cause the same to be made without delay, in the manner prescribed, as well as in their own cutcherries, and in the cutcherries of the Diwani Courts situated within their respective zilas; allowing the further period of one year from the date of such publications for the registry of the lands therein specified.

After the expiration of such period any unregistered land found to be held exempt from the payment of revenue is to be assessed, under the provisions contained in the above Regulations, whenever the same may be discovered;

and the Collectors are to enter lands so assessed (together with all other lakhiraj lands which may be brought upon the public assessment) in their succeeding * * [4] register of estates paying revenue, as well as in their register of intermediate mutations.

20 to 22. [*Notice of establishment of new villages and by persons succeeding to landed property; Kanungos' records to be delivered to Collector.*] *Rep. by the Land Registration Act, 1876 (Ben. Act 7 of 1876).*

[1] The Bengal Revenue-free Lands (Non-Badshahi Grants) Regulation, 1793. Section 25 of the Regulation was repealed by the Repealing and Amending Act, 1903 (1 of 1903).

[2] The Bengal Revenue-free Lands (Badshahi Grants) Regulation, 1793. Section 20 of the Regulation was repealed by the Repealing and Amending Act, 1903 (1 of 1903).

[3] Regulations 41 and 42 of 1795 were repealed by the United Provinces Land-Revenue Act, 1873 (19 of 1873).

[4] The word "quinquennial", which was repealed by the Repealing Act, 1874 (16 of 1874), is omitted.

THE BENGAL LAND-REVENUE ASSESSMENT REGULATION, 1801 [1]

(REGULATION 1 of 1801).

[15th January, 1801.]

A Regulation * * [2] to explain and amend the rules * * * [2]
for the division of joint estates, and allotment of the
fixed assessment thereupon * * * [2].

1, 2. [*Local extent; attachment of estate or farm for arrears of revenue.*] *Rep. by the Repealing Act, 1874 (16 of 1874).*

3. [*Immediate sale of attached estates, on proprietors refusing to furnish accounts.*] *Rep. by the Bengal Government Indemnity Regulation, 1822 (11 of 1822).*

4. [*Distress and sale of personal property in certain cases.*] *Rep. by the Repealing Act, 1874 (16 of 1874).*

5 to 7. [*Sale of estates in one or more lots.*] *Rep. by the Bengal Government Indemnity Regulation, 1822 (11 of 1822).*

Section 10,
Regulation 1,
1793, to be
observed in all
cases of public
sale and private
transfer
or division.

8. Section 10, Regulation 1, 1793 [3] prescribes the general rule and principle for the allotment of the fixed assessment upon all divisions of estates, whether publicly sold or transferred by the private act of the proprietors, namely, that the assessment upon the portion of the estate to be separated shall bear the same proportion to its actual produce as the fixed assessment upon the whole estate may bear to its actual produce.

This rule is to be strictly observed in all cases, whether of public sale or private transfer, or of division between sharers, heirs or joint proprietors of whatever description ;

[1] **SHORT TITLE.**—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), printed in Vol. I, p. 18.

LOCAL EXTENT.—This Regulation has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), section 6 (printed, General Acts, 1868-76, Ed. 1898, p. 486), to be in force throughout Bengal, except as regards the Scheduled Districts.

The Regulation is in force in the Sonthal Parganas—see *ibid.*, Part VI, B, (c); but its application to the other de-regulationised tracts in Bengal is barred as follows, namely :—

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), section 3 (2), printed in Vol. I, p. 257, *and*

[2] Words and figures in the title, which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

[3] The Bengal Permanent Settlement Regulation, 1793. Section 10 is printed *ante*, p. 436.

of 1801.]

ASSESSMENT REGULATION, 1801.

(Sec. 8.)

and it is hereby explained that by the term "actual produce" is to be understood the neat annual rent, or other neat produce receivable by the proprietor, after deducting from the gross rent, or other gross produce, the actual expense of collection and other usual charges of management, inclusive of pulbandi or the expense of embankments, and similar incidental expenses, where such may be paid by the proprietor from his gross receipts; but exclusive of his malikana or proprietary income, and all other personal appropriations of the gross produce of his estate, as such can have no claim to consideration in determining the neat produce for an equal division of landed property, or for the allotment of the public assessment thereto in conformity to the prescribed rule.

"Actual produce" defined.

But the above Regulation further provides that the produce to which the general rule of proportion is to be applied shall be ascertained in the mode that is or may be prescribed by the Governor General in Council* * *[1];

It is hereby enacted that whenever the Collector or other public officer, to whom the allotment of the assessment upon the portion of an estate may be committed, shall have reason to suspect the accuracy of the village-accounts produced by a patwari, * * * [2];

Procedure of officer charged with allotment of assessment of portion of estate, should he doubt accuracy of patwari accounts, or they be not forthcoming.

or if such accounts shall be found to have been fabricated or altered, or not to be the true accounts, * * * [3];

or if in any case the true village-accounts of the lands, rents, receipts and disbursements may not be forthcoming, but the Collector or other officer, under the powers vested in him * * * [4], shall have obtained satisfactory accounts for the three past years of the lands and rents of the entire zamindari, taluk or other estate, with a specification of the mahal or mahals proposed to be separately assessed,

he shall adjust the assessment upon such mahal or mahals, under the

[1] The words and figures "and the patwari accounts furnished in pursuance of clause *Fourth* of section 62, Regulation 8, 1793, for the allotment of the public revenue agreeably to the principles laid down in Regulation 1, 1793, having in many instances proved fallacious or unsatisfactory, and in some instances not being preceivable by the officers of Government," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

[2] The words and figures "in pursuance of clause *Fourth* of section 62, Regulation 8, 1793, or of any other Regulation," which were repealed by the same Act, are omitted.

[3] The words "under the process prescribed by clause *First* of section 29, Regulation 7, 1799, or any other Regulation," which were repealed by the same Act, are omitted.

[4] The words and figures "by clause *First* of section 29, Regulation 7, 1799, or any other Regulation," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

general rule of proportion, according to the average neat produce (as above explained) ascertainable from the general accounts of the estate so obtained, without further regard to the village-accounts than may appear to him proper, with a view to compare and check the other accounts :

Provided, however, that in all cases the Collector or other officer shall adopt every authorized measure to obtain the most accurate accounts procurable, and shall fully satisfy himself that the accounts from which he may compute the neat produce of an estate to be divided and distinctly assessed are sufficiently accurate to prevent any risk of loss to Government from the proposed allotment of the assessment; without evidence of which no distinct assessment is to be proposed by any Collector [1] or approved by the Board of Revenue: [2]

Collectors
not to fix
assessment
on portion of
estate, with-
out Board's
sanction.

Provided further that nothing in this Regulation shall be understood to authorize the Collectors [1] to fix the amount of the assessment to be allotted upon the portion of an estate, whether publicly or privately disposed of, without the sanction of the Board of Revenue [2] * * * * [3]

* * * * * [4]

9. [Statement of land for sale to be submitted without delay.] *Rep. by the Repealing Act, 1874 (16 of 1874).*

Collectors
authorized to
cause attend-
ance of land-
holder or
other Native;

10. All purchasers of lands at the public sales are required to attend the Collector [1] of the district wherein the lands may be situated, either in person or by their representatives duly authorized, and to execute the usual kabuliyat and kistbandi for the public revenue assessed upon the lands purchased by them.

In cases of doubt as to the real purchaser * * * * [5] the Collector [1] is authorized to cause the personal attendance of the alleged purchaser

[1] As to the exercise of functions of Collectors by other officers, *see* the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 478.

[2] As to the exercise of functions of the Board of Revenue by other authorities, *see* the references cited in the footnote on p. 75 of Vol. I.

[3] The words and figures "or to alter the provisions made for the correction of error or collusion in such allotments, by section 25, Regulation 25, 1793, in cases of private divisions of estates, and by clause *Second* of section 29, Regulation 7, 1799, in cases of public sales," in s. 8, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[4] The rest of s. 8, which was repealed by the Repealing and Amending Act, 1903 (1 of 1903), is omitted.

[5] The words and figures "or of suspicion that the purchase has been made in opposition to the rules contained in clauses *Third* and *Fourth* of section 29, Regulation 7, 1799", which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[6] For power of Board of Revenue to require the attendance of landholders, and to fine persons neglecting to attend, *see* the Bengal Land-revenue Regulation, 1793 (2 of 1793), s. 33, *ante*, p. 452.

For power to fine proprietors and farmers of land for not attending before the Collector, *see* the Bengal Landholders' Attendance Act, 1848 (20 of 1848), *post*, p.

of 1801.]

ASSESSMENT REGULATION, 1801.

(Sec. 10.)

at his cutcherry if resident within his jurisdiction; or, if the purchaser be resident in any other zila, the Collector [1] of such zila is authorized and required to cause the attendance of the purchaser at his cutcherry on the application of the Collector [1] in whose district the lands may lie, and to make any examination or inquiry that may be desired by the latter Collector [1] or by the Board of Revenue, [2] to whom a full report is to be made in such cases * * * [3].

It is further hereby declared that the Collectors [1] are generally empowered to cause the personal attendance of any landholder or other Native inhabitant within their respective jurisdictions, when the attendance of such person may be indispensably necessary for the purpose of any authorized public inquiry, or to enable them to perform any part of their public duty, under the Regulations or instructions of the * * * [4] Board of Revenue [2].

But no Collector [1] shall cause the personal attendance of any landholder or other person who may appoint an agent duly authorized to attend for him if the attendance of the agent so appointed shall be sufficient for the purpose required.

Not to enforce personal attendance of principal if that of agent will suffice.

Any infringement of this rule will subject the Collectors to a prosecution for damages in the Civil Courts;

Effect of infringement of rule. Summons to persons whose attendance is required.

and, whenever they may have occasion to exercise the power now declared to be vested in them, they are to issue regular summonses, under their official seals and signatures, specifying the name, designation and residence of the party summoned, and the purpose or purposes for which his attendance is required.

11. [Sale of shares in an undivided estate.] *Rep. by the Bengal Government Indemnity Regulation, 1822 (11 of 1822).*

12, 13. [Division of joint estates, and allotment of the assessment.] *Rep. by Ben. Reg. 19 of 1814.*

14. * * * * * [5]

The rules regarding separable taluks contained in Regulation 8, 1793, [6]

Rules regarding

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822). s. 85, *post*, p. 573.

[2] As to the exercise of functions of the Board of Revenue by other authorities, see the references cited in the footnote on p. 75 of Vol. I.

[3] The words and figures "for the order of the Governor General in Council, as directed in clause Fourth of section 29, Regulation 7, 1793" which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[4] The words "Governor General in Council or", which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

[5] Portion of s. 14 which was repealed by the Repealing and Amending Act, 1891 (12 of 1891), is omitted.

[6] The Bengal Decennial Settlement Regulation, 1793. It is printed *ante*, p. 456.

THE BENGAL LAND-REVENUE ASSESSMENT REGULATION, 1801. [Reg. 1 of 1801.]

(Sec. 14.)

separable
taluks not
applicable to
taluk consti-
tuted since
decennial set-
tlement.

were never meant to be applied to any new taluks constituted since the period of the decennial settlement.

By section 9, Regulation 1, 1793, [1] the zamindars and all other proprietors of land have been declared at liberty to transfer by sale, gift or otherwise their proprietary rights in the whole or any portion of their respective estates; but by section 10 of the same Regulation it is required that all such transfers be notified to the Collector of the zila, that the fixed jama assessed upon the whole estate may be apportioned on the several shares in the manner therein prescribed; that the names of the proprietors of each share and the jama assessed thereon may be entered upon the public registers, and that separate engagements for the payment of the jama assessed upon each share may be executed by the proprietors, who are thenceforward to be considered separate proprietors of distinct estates; but until such notification and separation shall have been made the whole of the estate is declared responsible to Government for the discharge of the fixed jama assessed upon it, in the same manner as if no transfer had taken place.

* * * * *

*[2]

Transfer of
proprietary
right in
portions of
estates in
certain cases
declared
invalid as far
as respects
rights of
Government.

If, therefore, any zamindar shall have disposed of his proprietary rights in any portion of his zamindari subsequently to the promulgation of the Regulation above-mentioned, whether under the denomination of an independent taluk or otherwise, and the talukdar or other person to whom the portion of an estate may have been so transferred shall have omitted to obtain a separate allotment of the public assessment thereon, in the mode prescribed by the Regulations, such transfer, as far as respects the rights of Government, must be considered altogether invalid;

and if the land so privately transferred, but not separately assessed; should have been since, or shall be hereafter, included in any public sale for arrears of revenue, the illicit and imperfect private transfer must be deemed to have been altogether done away.

In such cases the lands transferred, until publicly registered and separately assessed, form part of an undivided estate; and as such are liable to be sold for any arrear of revenue which may be due from any part of the estate:

[1] The Bengal Permanent Settlement Regulation, 1793. S. 9 is printed *ante*, p. 436.

[2] The words and figures "This declaration is also repeated in section 28, Regulation 25, 1793, which contains the specific rules established by Government: the division of estates paying revenue, and the allotment of the jama upon the several portions thereof", which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

[Reg. 1 of 1801.] THE BENGAL LAND-REVENUE ASSESSMENT REGULATION, 1801.

(Sec. 14.)

[Reg. 12 of 1805.] THE CUTTACK LAND-REVENUE REGULATION, 1805.

Provided, however, that nothing in this section be considered applicable to dependent taluks, or other tenures dependent on the estate to which they are attached, and from which, by their title-deeds or otherwise, they are not entitled to be separated as a distinct estate * * * [1].

Section not to apply to dependent tenures.

15. [Applicability of certain rules to Benares.] Rep. by the Repealing Act, 1874 (16 of 1874).

THE CUTTACK LAND-REVENUE REGULATION, 1805
(REGULATION 12 OF 1805).

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SECTION.

1. Preamble.

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Second.—Validity of grants made after 14th October, 1791, and confirmed or admitted before 14th October, 1803.

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19. Grants of land exempt from revenue, made since 14th October, 1803, and not confirmed, declared invalid.

20. Procedure in case of doubt of authority of officer confirming grant.

21. Assessing lands resumed under sections 18 to 20.

22. *First*.—Revenue to belong to Government.

Second.—Assessment regulated by Rules for settlement of revenue-paying lands.

Procedure in case proprietor refuses to agree to assessment.

23. Periods fixed for registering grants and preparing periodical registers.

24. Regulation 19, 1793, in force in Cuttack.

[1] The words and figures "Section 6, Regulation 44, 1793, authorizes and confirms such tenures, subject to the restrictions contained in section 2 and 5 of that Regulation; with the explanation of the latter in section 7, Regulation 4, 1794, as clause *Fifth* of section 29, Regulation 7, 1799", which were repealed by the Repealing and ing Act, 1908 (1 of 1908), are omitted.

[2] This Table has been newly added.

SECTION.

25. Also Regulation 37, 1793.

26. *First.*—“Badshahi grant” defined.

Second.—Badshahi grants made before 14th October, 1803, declared valid.

Third.—Procedure in case of doubt as to authority of officers resuming grants.

Fourth.—Rules respecting grants for life only.

Fifth.—

Sixth.—Present possessors not to transfer or mortgage grants.

27. Grants made since 14th October, 1803, and not confirmed, declared invalid.

28. Procedure in case of doubt of authority of officer confirming grant.

29. Periods fixed for registering grants and preparing periodical registers.

30. Pensions.

31. Collection of sair, etc., abolished.

32. [*Repealed.*]

33. Sanads granted to certain zamindars confirmed.

34. Also sanad granted to Fateh Mohammad, jagirdar of Malud.

35. *First.*—Also settlement concluded with certain hill and jungle zamindars.

Second.—

Third.—Life settlement to be concluded with zamindars of Khurda and Kanaka.

36. Regulations regarding settlement or collection of revenue, etc., in Bengal extended to Cuttack.

Exceptions.

37. [*Repealed.*]

THE CUTTACK LAND-REVENUE REGULATION, 1805^[1]

(REGULATION 12 OF 1805).

[5th September, 1805.]

A Regulation for the settlement and collection of the public revenue in the Zila of Cuttack, including the Parganas of Pataspur, Kamardachor and Bhogra, at present included in the Zila of Midnapore.

Preamble.

1. Whereas it is necessary that fixed rules should be established for the settlement and collection of the public revenue in the zila of Cuttack :

[1] SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), printed in Vol. I, p. 18.

LOCAL EXTENT.—This Regulation was passed for the district of Cuttack—see the title and section 1. It is stated in the Survey and Settlement Manual, 1900, p. 71, that the Regulation is applicable “to the Districts of Cuttack, Puri and Balasore and to Pargana Pataspur in Midnapore.”

EXTENSION OF APPLICATION.—The rules prescribed in Reg. 12 of 1805 for determining the validity of grants for holding lands exempt from the payment of the public revenue have been declared applicable to grants for holding lands under mukarrari or other tenures limiting the demand of Government—see the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819 (2 of 1819), s. 4, *post*, p. 520.

Such parts of Regulation 12 of 1805 as relate to lakhiraj lands have been modified by the Bengal Revenue-free Lands Regulation, 1825 (Ben. Reg. 14 of 1825), *post*, p. 589.

of 1805.]

LAND-REVENUE REGULATION, 1803.

(Secs. 17, 18.)

* * * * *

And whereas it has been judged to be advisable to extend the Regulations in force for the settlement and collections of the public revenue in the Province of Bengal, with certain modifications and exceptions, to the zila of Cuttack: the following rules have been enacted, and are to be in force from the period of the promulgation of this Regulation.

2 to 11. [*Confirmation, with modifications, of Proclamation as to settlement of land-revenue in the Moghalbandi territory of the zila of Cuttack; registration of landed property*]. Rep. by the Repealing and Amending Act, 1903 (1 of 1903).

12 to 16. [*Extension of the Stamp Regulations to Cuttack; coinage in which settlement is to be made and revenue paid; bonds dischargeable in sicca rupees; engagements for coins other than siccas or gold mohurs not to be enforced.*] Rep. by the Repealing Act, 1874 (16 of 1874).

17. The following rules, containing modifications of the provisions contained in Regulation 19, 1793, [2] respecting lands exempt from the payment of revenue under grants not being badshahi or royal, shall be in force in the zila of Cuttack.

Modifications of Regulation 19, 1793.

18. *First*.—All grants for holding land exempt from the payment of revenue, made previously to the 14th day of October, 1791, corresponding with the 30th Assin, 1198, Bengal era; the 3rd Kartik, 1199, Fasli; the 30th Assin, 1199, Wilaiyati; the 3rd Kartik, 1848, Sambat; and the 15th Safr, 1207, Hijri, by whatever authority, and whether by a writing, or without a writing, shall be deemed valid, provided that the grantee actually and *bona fide* obtained possession of the land so granted, and held it exempt from the payment of revenue, previously to the date above-mentioned, and that the land shall not have been subsequently rendered subject to the payment of revenue by the officers or the orders of the Government.

Validity of grants of alienated lands made before 14th October, 1791.

If it shall be proved to the satisfaction of the Court that the grantee did not obtain possession of the land so granted, or did not hold it exempt from the payment of revenue previously to the date above specified, or that he did obtain possession of it prior to that date but that it has been since subjected to the payment of revenue by the officers or the orders of Government, the grant shall not be deemed valid.

Second.—All grants for holding land exempt from the payment of revenue, which may have been made subsequently to the 14th day of October, 1791, and prior to the 14th day of October, 1803, by whatever authority, and which may have been confirmed or expressly admitted antecedently to the 14th day of

Validity of grants made after 14th October, 1791, and confirmed or admitted

[1] Portion of section 1 which was repealed the Repealing and Amending Act, 1903 (1 of 1903), is omitted.

[2] The Bengal Revenue-free Lands (Non-Badshahi Grants) Regulation, 1793. It is printed ante, p. 468.

THE CUTTACK

[Reg. 12]

(Sec. 18.)

before 14th
October, 1803.

October, 1803, by the authority of the existing Government, shall be deemed valid, provided the grantee actually and *bond fide* obtained possession of the land so granted, and held the same exempt from the payment of revenue, previously to the 14th day of October, 1803, and the land shall not have been afterwards rendered subject to the payment of revenue by the officers or the orders of the late Government.

If it shall be proved, to the satisfaction of the Court, that the grantee did not obtain possession of the land so granted, or did not hold it exempt from the payment of revenue, previously to the 14th day of October, 1803, or that he did obtain possession of it prior to that date, but that it has been since subjected to the payment of revenue by the officers or the orders of the late Government, the grant shall not be deemed valid.

Reference of
doubtful
claims to Gov-
ernor General.

Third.—In the event of a claim being preferred by any person to hold land exempt from the payment of revenue, under a grant made previously to the 14th day of October, 1791, or under a grant made subsequent to that date, but prior to the 14th day of October, 1803, and confirmed or admitted by the authority of the existing Government, and of its being proved to the satisfaction of the Court in which the suit may be instituted in the first instance, or to which it may be appealed, that the grantee held the land exempt from the payment of revenue previously to the date specified, but that it was afterwards subjected to the payment of revenue by an officer of Government, and the Court shall entertain doubts as to the competency of such officer, under the powers vested in him, to subject the land to the payment of revenue, the Court shall suspend its judgment, and report the circumstances to the [1] [Governor General in Council,] to whom a power is reserved of determining whether such officer was or was not competent to subject the land to the payment of revenue; and, upon receiving the determination of the [1] [Governor General in Council,] the Court is to decide accordingly.

In like manner the [1] [Governor General in Council] reserves to [2] [himself] the power of determining, in cases of doubt, whether any officer of the Raja of Birar who may have made, confirmed or admitted grants of land exempt from the payment of revenue in the name or on the part of the Raja was competent to exercise such authority.

[1] The words "Governor General in Council" are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. 2, printed in Vol. I, p. 40.

[2] The word "himself" is to be read as if the word "itself" were substituted therefor—see *ibid.*

of 1805.]

LAND-REVENUE REGULATION, 1805.

(Sec. 18.)

The Courts of Judicature shall accordingly suspend their judgment in cases of the above nature, and report the circumstances for the decision of the [1] [Governor General in Council].

Fourth.—But no part of the three preceding clauses shall be construed to empower the Courts to adjudge any person, not being the original grantee, entitled to hold land now paying revenue to Government, exempt from the payment of revenue, under any grant made previously to the 14th day of October, 1803, the writing for which may expressly specify it to have been given for the life of the grantee only ;

Rules respecting grants for life only.

or supposing no such specification to have been made in writing, or the writing not to be forthcoming, or no writing to have been executed, where the grant, from the nature and denomination of it, shall be proved to be a life-tenure only, according to the ancient usage of the country.

Fifth.—Nor to entitle the heirs of any person now holding land exempt from the payment of public revenue, under whatever grant, to succeed to and hold such land exempt from the payment of revenue upon the demise of the present possessor, where the writing for such grant may expressly specify it to have been given for the life of the grantee only; or supposing no such specification to have been made in the writing, or the writing not to be forthcoming, or no writing to have been executed, where, from the nature and denomination of the grant, it shall be proved to be a life-tenure only, according to the ancient usages of the country.

Heirs of present possessors.

Nor to entitle the heirs to any such person to hold the lands exempt from the payment of revenue after his demise, supposing the writing for the grant not to specify whether it was to be considered hereditary or otherwise, unless it shall be proved, to the satisfaction of the Court, that the grant, from the nature and denomination of it, is hereditary, according to the ancient usages of the country.

But upon the demise of the present possessor of any such grant, which may be adjudged not hereditary under this clause, if it shall appear that one or more successions, in virtue of whatever right, shall have taken place before the 14th day of October, 1803, the lands shall not be subjected to the payment of revenue under the decree without the sanction of the [1] [Governor General in Council,] to whom a copy of the proceedings and decree of the Court is to

[1] The words "Governor General in Council" are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. 2, printed in Vol. I, p. 40.

be transmitted, and to whom is reserved a power of declaring the lands subject to the payment of revenue, or not, as may appear to [1] [him] proper.

Present
possessors
not to trans-
fer or
mortgage
grants.

Sixth.—The present possessors of lands held exempt from the payment of revenue, under all life-grants declared by the preceding clause not to be hereditary, are prohibited from selling or otherwise transferring them, or mortgaging the revenue of them for a longer period than their own lives; and all such transfers and mortgages are declared illegal and void:

Exemption
of certain
grants for
religious or
charitable
purposes.

Seventh.—Provided, however, that nothing herein contained shall authorize the subjecting to the payment of revenue any quantity of land, not exceeding ten bighas, held exempt from the payment of revenue under a grant made prior to the 14th day of October, 1803, and *bond fide* appropriated as an endowment for temples or for other religious or charitable purposes.

Moreover, if any land so held and appropriated, exceeding ten bighas, shall become liable to assessment under the rules contained in this Regulation, and the Judge of the Court before which the suit for the assessment of such land may be depending, or the Collector [2] of the district, if no judicial suit respecting it be depending, shall be of opinion that the immediate assessment of such land would be productive of distress, he shall report the same, with the circumstances of the case, for the consideration of the [3] [Governor General in Council.]

Courts not
to take
cognizance of
certain
claims to hold
exempted
lands.

Eighth.—The Courts of Justice shall not take cognizance of any claim to hold exempt from the payment of revenue, under the present Regulation, land which may have been subjected to the payment of revenue for the period of twelve years prior to the 14th day of October, 1803; nor of any claim to hold land exempt from the payment of revenue, which may have been subjected to the payment of revenue for the twelve years preceding the date on which the claim may be instituted, unless the claimant can show good and sufficient cause for not having preferred his claim to a competent jurisdiction within that period.

Grants of
land exempt
from revenue
made since
14th October,
1803, and not
confirmed,
declared in-
valid.

19. All grants for holding land exempt from the payment of revenue, which may have been made since the 14th day of October, 1803, corresponding with the 29th Assin, 1210, Bengal era; the 14th Kartik, 1211, Fasil; the 29th Assin, 1211, Wilaiyati; the 14th Kartik, 1860, Sambat; and the 27th Jamadi-us-Sani, 1218, Hijri, by any other authority than that of the British

[1] The word "him" is to be read as if the word "it" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. 2, printed in Vol. I, p. 40.

[2] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 573.

[3] The words "Governor General in Council" are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. 2, printed in Vol. I, p. 40.

of 1805.]

LAND-REVENUE REGULATION, 1805.

(Secs. 20-23.)

Government, and which may not have been confirmed by the Governor General in Council or by an officer empowered to confirm them are declared invalid.

20. If doubts shall be entertained by any Court as to the competency of the authority of any officer to confirm any such grant, the Court is to suspend its judgment, and report the circumstances of the case to the [1] [Governor General in Council,] to whom a power is reserved of determining finally whether the officer possessed competent authority to confirm the grant, or otherwise; and the Court, upon receiving the determination of the [1] [Governor General in Council,] shall decide accordingly.

Procedure in case of doubt of authority of officer confirming grant.

21. The following rule shall be in force in the Province of Cuttack for assessing land declared subject to the payment of revenue to Government under the three foregoing sections of this Regulation :—

Assessing lands resumed under sections 18 to 20.

22. *First.*—The revenue assessable on all lands which shall be adjudged or become liable to the payment of revenue, under sections 18, 19 and 20 of the present Regulation, is declared to belong to Government.

Revenue to belong to Government.

Second.—The revenue, payable to Government, shall be regulated by the rules prescribed by this Regulation for concluding the settlement of lands paying revenue to Government, and by any subsequent rules which may be prescribed relative to the assessment of lands subject to the payment of revenue to Government.

Assessment regulated by rules for settlement of revenue-paying lands.

If the proprietor shall not agree to the assessment so fixed, a report of his objections, and of the circumstances of the case, shall be made by the Collector [2] of the district, [3] [to the Board of Revenue,] who will determine on the amount of the assessment; and, if the proprietor shall refuse to engage for the same, the lands shall be let in farm or held khas under the rules contained in the existing Regulations.

Procedure in case proprietor refuses to agree to assessment.

23. The period of one year, reckoning from the expiration of the current Wilaiyati year 1212, [4] shall be allowed to the proprietors to register their grants.

Periods fixed for registering grants and preparing periodical registers.

On the expiration of that period of time the Collectors [2] shall prepare the first periodical register of lands held exempt from the payment of revenue ;

[1] The words "Governor General in Council" are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. 2, printed in Vol. I, p. 40.

[2] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 573.

[3] These words in square brackets in s. 22 were substituted for the words "through the Board of Revenue, for the information of the Governor General in Council" by the Repealing and Amending Act, 1903 (1 of 1903), Sch. 2, printed in Vol. I, p. 40.

[4] i. e., the 18th September, 1805.

and the second, third and each successive register at the expiration of every five years.

Regulation
19, 1793,
in force
in Cuttack.

[1] 24. All the provisions contained in Regulation 19, 1793, [2] regarding lands exempt from the payment of revenue to Government under grants not being badshahi or royal, which are not superseded by the foregoing rules, are hereby declared to be in force in the zila of Cuttack.

Also Regula-
tion 37,
1793.

25. The following rules containing modifications of the provisions contained in Regulation 37, 1793, [3] respecting lands held exempt from the payment of revenue under badshahi or royal grants, shall be in force in the zila of Cuttack; and all the provisions of that Regulation which are not superseded and rendered of no effect by the following rules shall be considered to be in force in the said zila.

"Badshahi
grant"
defined.

26. *First*.—The term "badshahi grant" shall be construed to extend to all grants made by the supreme power for the time being, and consequently to include grants of the following descriptions:—First, royal grants properly so called; secondly, grants made by the Subah of Orissa; and thirdly, grants made by the Rajas of Berar.

Badshahi
grants made
before 14th
October, 1803,
declared
valid.

Second.—Altamgha, jagir, aima, madadmash or other badshahi grants for holding land exempt from the payment of revenue, made previous to the 14th October, 1803, shall be deemed valid provided the grantee actually and *bond fide* obtained possession of the land so granted previous to that date, and the grant shall not have been subsequently resumed by the officers or the orders of Government.

If it shall be proved to the satisfaction of the Court that the grantee did not obtain possession of the land so granted previous to the 14th October, 1803, or that he did obtain possession of it prior to that date, but that it has been since resumed by the officers or the orders of Government, the grant shall not be deemed valid.

Procedure in
case of doubt
as to authority

Third.—In the event, however, of a claim being preferred by any person to hold land exempt from the payment of revenue under a badshahi grant

[1] So much of s. 24 as authorises and requires proprietors and farm taluks (in cases in which grants for holding land exempt from the payment of revenue have been made subsequent to the 1st December, 1790.) "of their own authority" and to dispossess the grantees of the proprietary right in the land and to dispossess the grantees of the proprietary right in the estate or taluk in which it may be situate" has been repealed by the Rent Act, 1859 (10 of 1859), s. 28, printed ante, p. 190.

[2] The Bengal Revenue-free Lands (Non-Badshahi Grants) Regulation, 1793. It is printed ante, p. 468.

[3] The Bengal Revenue-free Lands (Badshahi Grants) Regulation, 1793. It is printed ante, p. 468.

of estates and dependent of revenue have been collect the rents of such and to re-annex it to Rent Act, 1859

of 1805.]

LAND-REVENUE REGULATION, 1805.

(Sec. 26.)

made previous to the 14th October, 1803, and on its being proved to the satisfaction of the Court in which the suit may be instituted in the first instance, or to which it may be appealed, that the grantee held the land exempt from the payment of revenue previous to that date, but that it was subjected to the payment of revenue posterior thereto by an officer of Government, and the Court shall entertain doubts as to the competency of such officer under the powers vested in him to resume the grant and subject the lands to the payment of revenue, the Court shall suspend its judgment, and report the circumstances to the [1] [Governor General in Council,] to whom a power is reserved of determining whether such officer was or was not competent to resume the grant; and, upon receiving the determination of the [1] [Governor General in Council,] the Court is to act accordingly.

of officer
resuming
grants.

Fourth.—But no part of the preceding clauses shall be construed to empower the Courts to adjudge any person, not being the original grantee, entitled to hold land paying revenue to Government exempt from the payment of revenue under a jagir or other grant made previous to the 14th October, 1803, where the grant may expressly specify it to have been given for the life of the grantee only; or supposing no such specification to have been made in the grant, or the grant not to be forthcoming, where the grant, from the nature and denomination of it, shall be proved to be a life-tenure only, according to the ancient usages of the country.

Rules respect-
ing grants for
life only.

Fifth.—Nor to entitle the heirs of any person now holding lands exempt from the payment of public revenue, under a jagir or other badshahi life-grant made previous to the 14th October, 1803, to exempt from the payment of revenue upon the demise of the present possessor, where the grant may expressly specify it to have been given for the life of the grantee only: or supposing no such specification to have been made in the grant, or the grant not to be forthcoming, where, from the nature and denomination of the grant, it shall be proved to be a life-tenure only, according to the ancient usages of the country.

Sixth.—The present possessors of lands now exempt from the payment of revenue, under such jagir or other life-grants made previous to the 14th October, 1803, and declared by the preceding clause not to be hereditary, are prohibited from selling or otherwise transferring them, or mortgaging the

Present
possessors
not to trans-
fer or
mortgage
grants.

[1] The words "Governor General in Council" are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1908 (1 of 1908), Sch. 2, printed in Vol. I, p. 40.

revenue of the lands for a longer period than their own lives; and all such transfers and mortgages which have been or may be made are declared illegal and void.

Grants made since 14th October, 1803, and not confirmed, declared invalid.

27. All badshahi grants for holding land exempt from the payment of revenue, which may have been made since the 14th October, 1803, by any other authority than that of the British Government, and which may not have been confirmed by Government, or by an officer empowered to confirm them, are declared invalid.

Procedure in case of doubt of authority of officer confirming grant.

28. If doubts shall be entertained by any Court as to the competency of the authority of any officer to confirm any such grant, the Court is to suspend its judgment, and report the circumstances of the case to the [1] [Governor General in Council,] to whom a power is reserved of determining finally whether the officer possessed competent authority to confirm the grant or otherwise; and the Court, upon receiving the determination of the [1] [Governor General in Council,] shall decide accordingly.

Periods fixed for registering grants and preparing periodical registers.

29. The period of one year, reckoning from the expiration of the Wilaiyati year 1212 [2] shall be allowed to the proprietors to register their grants. On the expiration of that period of time the Collectors [3] shall prepare the first periodical register of lands held exempt from the payment of revenue under badshahi tenures; and the second, third and each successive register at the expiration of every five years.

Pensions.

30. * * * * *

In cases in which persons may have obtained pensions [5] from the Government of Berar, under grants made previous to the 14th day of October, 1803, such pensions shall be continued to the present incumbents, and will either descend to their heirs and successors, or will revert to Government on the decease of the present incumbents, as shall appear to the [1] [Governor General in Council,] on a consideration of the tenor of the grant and all the circumstances of the case, to be proper * * * [6]:

Provided, * [7] that in cases in which persons shall have been in the actual

[1] The words "Governor General in Council", in s. 28, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. 2, printed in Vol. I, p. 40.

[2] i.e. the 13th September, 1805.

[3] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 573.

[4] Portion of s. 30 which was repealed by the Repealing and Amending Act, 1891 (12 of 1891), is omitted.

[5] As to pensions, see now the Pensions Act, 1871 (23 of 1871), in General Acts, 1868-71, Ed. 1898, p. 205.

[6] The words and figures "under section 4, Regulation 24, 1793" which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

[7] The word "likewise", which was repealed by the same Act, is omitted.

of 1805.]

LAND-REVENUE REGULATION, 1805.

(Secs. 31-35.)

receipt of pensions during a period of three or more years antecedent to the 14th day of October, 1803, under whatever authority, such pensions shall be continued to the present incumbents during their respective lives, but shall revert to Government on the decease of the present incumbents, unless any particular reasons shall appear to the [1][Governor General in Council] to exist for continuing the said pensions to their heirs and successors :

Provided also that nothing herein contained shall be construed to authorize the resumption of the established donation for the support of the temple of Jagannath, the charitable donation to the officers of certain Hindu temples, called Anuchattri, and the allowance granted for the support of the Hindu temple at Cuttack, called Sitaram Thakur Bari.

31. The settlement of the land-revenue of the zila of Cuttack having been ordered to be made with the exclusion of all sair-duties, all duties of that description are hereby abolished in the said zila ; with the exception of the tax on the sale and consumption of spirituous liquors and intoxicating drugs * * * * ; [2]

Collection of sair, etc., abolished.

32. [*Extension of Reg. 36 of 1793 to Cuttack.*] *Rep. by Act 16 of 1864.*

33. The Commissioners having granted sanads to certain zamindars, entitling them to hold their estates at a fixed jama in perpetuity, those sanads are hereby confirmed. The following is a list of the names of the zamindars to whom this provision is to be considered applicable :—

Sanads granted to certain zamindars confirmed.

Zamindar of Qil'a Darpan,

Ditto of ditto Sukinda,

Ditto of ditto Madhupur.

34. The Commissioners having likewise granted a sanad to Fateh Muhammad, jagirdar of Malud, entitling him and his heirs for ever, in consideration of certain services performed towards the British Government, to hold his lands exempt from assessment, such sanad is hereby confirmed.

Also sanad granted to Fateh Muhammad, jagirdar of Malud.

35. *First.*—The late Board of Commissioners having concluded a settlement of the land-revenue with certain zamindars, whose estates are situated chiefly in the hills and janguls, for the payment of a fixed annual quit-rent in perpetuity, those engagements are hereby confirmed ; and no alteration shall,

Also settlement concluded with certain hill and jungle zamindars.

[1] The words "Governor General in Council", in section 30, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. 2, printed in Vol. I, p. 40.

[2] The words "and the duties levied from pilgrims at Jagannath" are omitted, as having been repealed by Act 10 of 1840. The rest of the section was repealed by the Repealing and Amending Act, 1903 (1 of 1903), and is also omitted.

THE CUTTACK LAND-REVENUE REGULATION, 1805. [Reg. 12 of 1805.]

(Sec. 36.)

at any time, be made in the amount of the revenue payable under the engagements in question to Government.

Second.—The following is a list of the mahals to which the provision in the preceding clause is applicable:—

Qil'a Anll,[1]

Qil'a Hamishpore,[8]

Ditto Kujan,

Ditto Marichpur,

Ditto Puttra,[2]

Ditto Visunpur.

Like settlement to be concluded with zamindars of Khurda and Kanaka.

Third.—The zamindaris of Korda[4] and Kankat[5] being mahals of the description of those specified in the preceding clause, a settlement shall be concluded, as soon as circumstances may admit, for the revenue of those mahals on the principle on which a settlement has been concluded with the zamindars of the mahals specified in the preceding clause.

Regulations regarding settlement or collection of revenue, &c., in Bengal extended to Cuttack.

36. All Regulations relating directly or indirectly to the settlement and collection of the public revenue, or to the conduct of the officers employed in the performance of that duty, whether European or Native, in the Province of Bengal, which are not superseded by the foregoing rules, are hereby extended to, and declared to be in force in, the zila of Cuttack:

Exceptions.

Provided, however, that nothing herein contained shall be construed to authorize the division of the lands comprised in any estates in the zila of Cuttack, in which the succession to the entire estate devolves according to established usage to a single heir: in cases of this nature the Courts of Justice are to be guided by the provisions contained in Regulation 10, 1800:[6]

* * * * *

37. [Similar exceptions applicable to the territory of Mayurbhanj.] Rep. by the Tributary Mahals of Orissa Act, 1893 of 1893).

[1] Query Ali. [2] Query Pātiya. [3] Harispur.

[4] Query Khurda. [5] Query Kanaka.

[6] The Bengal Inheritance Regulation, 1800. It is noted in Vol. IV of this Code.

[7] Portion repealed by the Tributary Mahals of Orissa Act, 1893 (11 of 1893), is omitted.

[Reg. 5 of 1812.] THE BENGAL LAND-REVENUE SALES REGULATION, 1812.

THE BENGAL LAND-REVENUE SALES REGULATION, 1812 [1]

(REGULATION 5 OF 1812).

[1st May, 1812.]

A Regulation for amending some of the rules at present in force for the collection of the Land-revenue.

1. [Preamble and local extent.] Rep. by the Repealing Act, 1874 (16 of 1874).

[2] 2. **** [8] Proprietors of lands are declared competent to grant leases for any period which they may deem most convenient to themselves and tenants and most conducive to the improvement of their estates.

Proprietors competent to grant leases for any term.

[2] 3. **** [8] The proprietors of land shall henceforward be considered competent to grant leases to their dependent talukdars, under-farmers and raiyats, and to receive correspondent engagements for the payment of rent from

Proprietors competent to grant leases and receive engagements

[1] SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), printed in Vol. I, p. 18.

LOCAL EXTENT.—This Regulation has been declared by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed, General Acts, 1863-76, 1898, p. 434), to be in force throughout Bengal, except as regards the Scheduled Districts.

The Regulation has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), section 3, to be in force in the following Scheduled Districts, namely:—

the Western Hills, the Terai and the Dumson Sub-division, in the Darjeeling District—~~see Vol. V, Part V, B (b)~~, and the Hazaribagh and Manbhum Districts, and Pargana Dhalbhum in the Singhbhum District, in the Chota Nagpur Division—~~see Vol. V, Part V, B (b)~~.

Vol. V, Pt. V, B (b)

The Regulation is in force in the Sonthal Parganas—~~see Vol. V, Part VI, B (c)~~; but its application in the other de-regulationised tracts in Bengal is barred as follows, namely:—

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), s. 3 (2), printed in Vol. I, p. 257, and

—4

[2] S. 2 is explained in the Bengal Leases and Revenue Regulation, 1812 (18 of 1812), s. 2, ante, p. 152.

Leases made in conformity to ss. 2 and 3 are to remain in full force notwithstanding the partition, sale, devolution, gift, etc., of an estate—~~see the Bengal Leases and Land-revenue Regulation, 1812 (18 of 1812), s. 3, ante, p. 153.~~

Ss. 2, 3, 4, 26 and 27 are repealed by the Bengal Land Revenue (Amendment) Act, 1885 (8 of 1885), s. 2 (1), (printed ante, p. 253), in the whole of Bengal "except the town of Calcutta, the Division of Orissa and the Scheduled Districts."

As to the extension of this repeal to the Division of Orissa, ~~see s. 2 (2) of the Act of 1885,~~ ante, p. 253.

The extension of the repeal to Scheduled Districts extending the Act of 1885 to such districts.

upon the terms of notifications ~~extending the Act to such districts~~

[3] Repealing clauses in ss. 2 and 3, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

in any convenient form.

each of those classes, or any other classes of tenants, according to such form as the contracting parties may deem most convenient and most conducive to their respective interests :

Prohibition of arbitrary cesses.

Provided, however, that nothing herein contained shall be construed to sanction or legalize the imposition of arbitrary or indefinite cesses, whether under the denomination of abwab, mathat or any other denomination.

All stipulations or reservations of that nature shall be adjudged by the Courts of Judicature to be null and void : but the Courts shall notwithstanding maintain and give effect to the definite clauses of the engagements contracted between the parties, or, in other words, enforce payment of such sums as may have been specifically agreed upon between them.

No attachment of lands on part of Government or purchaser at public sales, entitled to annul existing leases within year.

[1] 4. * * * * [2] Neither any person deputed to attach lands on the part of Government, nor purchasers at the public sales, shall be deemed entitled to annul existing leases within the year in which the attachment or sale may have taken place, on the ground that such leases were evidently collusive, without a decision to that effect in a Court of Judicature * * [3].

5 to 23. [*Rules as to rates at which purchasers of land may collect during year in which sale took place ; rules to apply to sequestrators, etc., holding under authority of Boards of Revenue or Commissioners ; modifications of existing rules for recovery of arrears.*] *Rep. by the Bengal Rent Act, 1869 (10 of 1859).*

Sales of entire estates not liable to be annulled on ground of some sharers not having obtained possession.

24. It is hereby declared that sales made of entire estates for the recovery of arrears of public assessment are not liable to be annulled by the Courts of Judicature on the ground that one or more of the sharers may not have obtained possession of his or their interests in the property.

The consideration of and decision on the expediency of selling the entire estate, or of disposing in the first instance of any particular part of it, is hereby declared to reside in the Board of Revenue [4] * * * [5] subject to the control exercised by the Government, in its executive capacity, in matters connected with the public revenue.

[1] As to the local repeal of s. 4, see footnote [2] on p. 513, ante.

[2] Portion of s. 4 which was repealed by the Repealing Act, 1874 (16 of 1874), is omitted.

[3] The words and figures "the case to be tried as a summary suit under Regulation 7, 1799," in s. 4, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[4] As to the exercise of functions of the Board of Revenue by : authorities, see the references cited in the footnote on p. 75 of Vol. I.

[5] The words "and Board of Commissioners, respectively", which repealed by the Repealing Act, 1876 (12 of 1876), are omitted.

of 1812.]

SALES REGULATION, 1812.

(Secs. 25-27.)

25. No means existing by which any certain or accurate computation can be formed *a priori* of the real value of any estate, or portion of estate, which may be exposed to sale for the recovery of arrears of public assessment, or of the adequacy of the price which may be offered for such estate, or portion of estate; it is hereby declared that sales made at public auction for that purpose are not liable to be annulled by the Courts of Judicature on the ground that the proceeds of the sales have materially exceeded the amount of the arrears due from the proprietor of the lands to Government.

Nor on ground of proceeds having materially exceeded arrears due.

The Board of Revenue [1] * * [2] will be guided in cases of that nature by their own discretion; subject, of course, to any instructions with which they may at any time be furnished by the [3] [Governor General in Council].

[4] 26. Inconvenience to the public and injury to private rights having been experienced in certain cases from disputes subsisting among the proprietors of joint undivided estate, it is hereby enacted that whenever sufficient cause shall be shown by the Revenue Authorities, or by any of the individuals holding an interest in such estates, for the interposition of the Courts of Judicature, it shall be competent to the Zila * * [5] Judges to appoint a person, duly qualified and under proper security, to manage the estate; that is, to collect the rents and discharge the public revenue, and provide for the cultivation and future improvement of the estate * * * [6].

Appointment by Judges of managers of joint undivided

[4] 27. In like manner, should the Authorities aforesaid, or any individual holding an interest in the estate, be at any subsequent time dissatisfied with the conduct of the manager, it shall be competent for them or him to represent the circumstances of the case to the Zila * * [7] Judge, and to move the Court for the removal of the said manager * * * [8].

Court may be moved for removal of managers.

28. [Penalty and interest on arrears.] *Rep. in part by Ben. Reg. 12 of 1824. Residue rep. by Ben. Reg. 7 of 1830.*

[1] As to the exercise of functions of the Board of Revenue by other authorities, see the references cited in the footnote on p. 75 of Vol. I.

[2] The words "and Board of Commissioners", which were repealed by the Repealing Act, 1876 (12 of 1876), are omitted.

[3] The words "Governor General in Council", in s. 25, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. 2 in Vol. I, p. 41.

[4] As to the local repeal of ss. 26 and 27, see footnote [2] on p. 518, *ante*.

[5] The words "and City", which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

[6] Portion of s. 26 which was repealed by the Repealing Act, 1874 (16 of 1874), is omitted.

[7] The words "or City", which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

[8] Words repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

**THE BENGAL LAND-REVENUE ASSESSMENT
(RESUMED LANDS) REGULATION, 1819
(REGULATION 2 of 1819).**

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[1] This Table has been newly add

of 1819.] ASSESSMENT (RESUMED LANDS) REGULATION, 1819.

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Second.—Procedure on such app
27. [*Repealed.*]
28. *First.*—Validity of farmans, sanads or grants to be carefully ascertained.
Second.—Such deeds not to be received unless registered.
- 29, 30. [*Repealed.*]
31. *First.*—Regulation not to affect right of proprietors to waste-land guaranteed at permanent settlement.
Second.—Nor to warrant claim to additional revenue from lands permanently assessed on plea of error or fraud.
Exception.

THE BENGAL LAND-REVENUE ASSESSMENT (RESUMED LANDS) REGULATION, 1819 ^[1]

(REGULATION 2 of 1819).

[12th February, 1819.]

A Regulation for modifying the provisions contained in the existing Regulations, regarding the resumption of the revenue of lands held free of assessment under illegal or invalid tenures, and for defining the right of Government to the revenue of lands not included within the limits of estates for which a settlement has been made.

Preamble.

1. The rules contained in Regulations 19 ^[2] and 37, ^[3] 1793, relative to the resumption of the revenue of lands held free of assessment under illegal or invalid tenures, and the corresponding provisions enacted in subsequent years, having been found inadequate to secure the just rights of Government, have from time to time been partially repealed or modified.

Those rules, however, are still in force within several of the districts subordinate to this Presidency, and the Regulations by which they have in other districts been superseded appear to be in several respects defective.

It further appears to be necessary, in order to obviate all misapprehension on the part of the public officers, or of individuals, to declare generally the

[1] **SHORT TITLE.**—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), printed in Vol. I, p. 18.

LOCAL EXTENT.—This Regulation was passed for the whole of Bengal—see s. 1.

It has been declared, by the Laws Local Extent Act, 1874 (1 of 1874), s. 6 (printed, General Acts, 1868-73, Ed. 1898, p. 485), to be in force throughout Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the following Scheduled Districts, namely:—

the Hazaribagh, Ranchi, Palamau and Manbhum Districts and Pargana Dhalbhum in the Singhbhum District, in the Chota Nagpur Division—see Vol. V, Part V, B (b).

The Regulation is in force in the Sonthal Parganas—see Vol. V, Part VI, B (c); but its application in the other de-regulationised tracts in Bengal is barred as follows, namely:—

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), s. 3 (2), printed in Vol. I, p. 257, and

~~in the Chittagong District, by the Chittagong District Regulation, 1900, s. 4 (2), printed in Vol. I, p. 258.~~

AMENDMENT.—Reg. 2 of 1819 is modified by the Bengal Revenue-free Lands Regulation, 1825 (14 of 1825), *post*, p. 589.

RULES.—As to proceedings under Reg. 2 of 1819 for the assessment to revenue of land held free, see the Survey and Settlement Manual, 1900, p. 106.

[2] The Bengal Revenue-free Lands (Non-Badshahi Grants) Regulation, 1793. It is printed *ante*, p. 466.

[3] The Bengal Revenue-free Lands (Badshahi Grants) Regulation, 1793. It is printed *ante*, p. 465.

Bengal

of 1819.] ASSESSMENT (RESUMED LANDS) REGULATION, 1819.

(Sec. 3.)

right of Government to assess all lands which, at the period of the decennial settlement, were not included within the limit of an estate for which a settlement was concluded with the owners, not being lands for which a distinct settlement may have been made since the above period, nor lands held free of assessment under a valid and legal title, and at the same time formally to renounce all claim on the part of Government to additional revenue from lands which were included within the limits of estates for which a permanent settlement has been concluded, at the period when such settlement was so concluded, whether on the plea of error or fraud, or on any pretext whatever, saving, of course, mahals expressly excluded from the operation of the settlement.

With the view, therefore, of establishing, on proper principles, one uniform course of proceeding in resuming the revenue of lands liable to assessment, so that the dues of Government may be secured without infringement of the just rights of individuals, the following rules have been enacted, to be in force from the date of their promulgation throughout the Provinces immediately subordinate to the Presidency of Fort William.

2. [Repeals.] *Rep. by the Repealing Act, 1874 (16 of 1874).*

3. *First.*—It is hereby declared and enacted that all lands which, at the period of the decennial settlement, were not included within the limits of any pargana, mauza or other division of estates for which a settlement was concluded with the owners, not being lands for which a distinct settlement may have been made since the period above referred to, nor lands held free of assessment under a valid and legal title of the nature specified in Regulations 19 [1] and 37, [2] 1798, and in the corresponding Regulations subsequently enacted, are and shall be considered liable to assessment in the same manner as other unsettled mahals; and the revenue assessed on all such lands, whether exceeding one hundred bighas or otherwise, shall belong to Government:

Lands not included in decennial settlement, not liable to assessment, except lands held free of assessment under valid title.

Provided, however, that nothing in the above rule shall be construed to affect the rights reserved to zamindars, talukdars and other proprietors of estates with whom a permanent settlement has been concluded, to the exclusive enjoyment of the rent assessed on lands held on an invalid tenure, free of assessment, within the limits of their respective estates and taluks, and of which the extent may not exceed one hundred bighas if in Bengal, Bihar or Orissa * * * [3].

Proviso.

[1] The Bengal Revenue-free Lands (Non-Badshahi Grants) Regulation, 1798. It is printed ante, p. 468.

[2] The Bengal Revenue-free Lands (Badshahi Grants) Regulation, 1798. It is printed ante, p. 485.

[3] The words "and fifty bighas if within the province of Benares", which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

Same principle applicable to chars and alluvion lands.

Second.—The foregoing principles shall be deemed applicable not only to tracts of land such as are described to have been brought into cultivation in the Sundarbans, but to all chars and islands formed since the period of the decennial settlement, and generally to all lands gained by alluvion or dereliction since that period, whether from an introcession of the sea, an alteration in the course of rivers or the gradual accession of soil on their banks. [1]

Also to lands included with in particular taluks.

Third.—The same principle shall likewise be deemed applicable to all land which, though included at the period of the permanent settlement within the limits of taluks held by individuals under special pattas from the Collector, such as the patitábádi and janga-buri taluks in the districts of the 24 Parganas and Jessore, may not have been permanently assessed at the above-mentioned period

Proviso.

Provided, however, that in respect to such lands, if in the possession of the original patta-holder, or his legal representative, the conditions of the patta in regard to the assessment of the land included within the limits specified in that instrument shall be strictly maintained.

Application of existing rules to grants for holding lands under mukarrari or other tenures.

4. The several rules prescribed in Regulations 11 [2] and 37 [3] of 1793 * * * * * [4] and 12 of 1805, [5] for determining the validity of grants for holding lands exempt from the payment of public revenue, are hereby declared applicable to grants for holding lands under mukarrari or other tenures limiting the demand of Government:

Proviso.

Provided, however, that nothing in this section shall be construed to affect the rules contained in Regulation 8, 1793, [6] relative to the assessment of lands held under valid grants or leases of the above nature * * * [7].

Power to direct investi-

[8] 5. *First.*—Whenever a Collector of revenue or other officer [9]

[1] As to the assessment of lands gained from sea or river by alluvion or dereliction, see the Bengal Alluvion and Diluvion Act, 1847 (9 of 1847), in Vol. I, p. 59.

[2] The Bengal Revenue-free Lands (Non-Badshahi Grants) Regulation, 1793. It is printed *ante*, p. 468.

[3] The Bengal Revenue-free Lands (Badshahi Grants) Regulation, 1793. It is printed *ante*, p. 468.

[4] The words and figures "and Regulations 41 and 42 of 1795, Regulations 31 and 36 of 1803, Regulations 8", which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

[5] The Cuttack Land-revenue Regulation, 1805. It is printed *ante*,

[6] The Bengal Decennial Settlement Regulation, 1793. It is printed

[7] The words and figures "nor to alter the provisions contained in Regulation 1, 1815, by which tenures of that description are declared liable to assessment on the death of the grantee", which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

[8] S. 5 has been modified by the Bengal Land-revenue Settlement Regulation, 1825 (9 of 1825), s. 5, printed *post*, p. 579.

[9] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 578.

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(Sec. 5.)

exercising the powers of Collector shall have a to believe that any lands lying within the sphere of his official control are liable to assessment, either as being held under an invalid tenure free of assessment, or at an inadequate jama, or as being liable to assessment on the principles stated in section 3 of this Regulation, he shall report the circumstances to the Board of Revenue or other [1] authority exercising the powers of that Board, who, should they be of opinion that proper grounds exist for inquiry, shall direct the Collector or other officer [2] aforesaid to enter on an investigation of the case in the manner hereafter mentioned.

Notice regard-
ing liability of
lands to be

Second.—The Collector, [2] on receiving the authority of the Board of Revenue, [1] shall call the party before him by a notice stating the demand of Government on the lands, and requiring him to attend either in person or by wakil, within the period of one month, and to produce all sanads or other writings in virtue of which he may possess the lands, or under which they may have been, or may be, claimed to be held free of assessment, or at a fixed jama.

Notice to
party,

Third.—If the persons whose lands it is proposed to assess have an accredited agent at the sadar station, with general powers to act for his principal, the notice to be issued under the preceding clause shall be tendered to such agent, to be communicated by him to his principal, and the agent's acknowledgment to be endorsed upon it shall be accepted as a sufficient service of it, if he be desirous of giving such acknowledgment in preference to the notice being served on the person of his principal by a chaprasi or peon of the Collector.

Or to his
agent, if
accredited
agent reside
at sadar
station.

Fourth.—If the person, the revenue of whose lands it is proposed to resume, shall not have an accredited agent at the sadar station of the description above-mentioned, or if such agent shall decline receiving the notice for communication to his constituent, and the defendant be resident within the collectorship, it shall be served on him through the nazir of the Collector by a single chaprasi or peon, who shall require the acknowledgment of the party to be endorsed upon it, or, if he be absent from his usual place of residence, the acknowledgment of his principal agent, or of any person acting for him during his absence.

Notice on
principal to
be served
through nazir
by single
peon.

[1] As to the exercise of functions of the Board of Revenue by authorities, see the references cited in the footnote on p. 75 of Vol. I.

[2] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 578.

Notice how served if party reside in another jurisdiction.

If the party be resident within the jurisdiction of any other collectorship than that in which the lands proposed to be assessed are situated, the notice shall be transmitted to the Collector [1] of the district in which the party may reside, to be served in the manner above directed.

If the party be neither resident within the collectorship in which the lands in question may be situated, nor in any other collectorship, the notice shall be served upon his agent or representative in charge of the lands.

If acknowledgment be refused, tender of notice sufficient service.

Fifth.—Provided always that, if any party or his agent in charge of his land, on whom a notice may be served in the manner above prescribed, shall refuse to acknowledge the receipt of it when required by the person serving it, the tender of the notice to such party or his agent shall be taken for a sufficient service; such tender to be proved by the evidence of two persons residing on the lands or in the nearest village.

Contents of

Sixth.—The Collector [1] shall, in the notice summoning the party, warn him that, if he withhold any writings of the nature specified in the second clause of this section within the period prescribed, they will not afterwards be received unless he shall show good and sufficient cause for not producing them and shall assign such cause on his appearing before him.

If notice cannot be served, proclamation to be issued.

[2] 6. *First.*—If the holder of such lands to whom a notice may have been issued as directed in the preceding section shall abscond, or is not after diligent search to be found, or shall shut himself up in any house or building, or retire to any place, so that the notice cannot be served upon him, the Collector or other officer [1] exercising the power of Collector, on receiving the nazir's return to this effect, shall issue a proclamation, to be affixed in some conspicuous part of his cutcherry.

The proclamation shall be written [3] [in the vernacular of the district] and it shall contain a copy of the former notice and a further notification to the party that, if he shall not appear on a day to be fixed (which shall not be less than fifteen days from the time that the proclamation may be fixed up), the Collector [1] will proceed, without further notice to hold the inquiry *ex parte*.

The Collector or other officer [1] exercising the power of Collector shall likewise order a copy of the proclamation and notice to be fixed up, with

[1] As to the exercise of functions of Collectors by other officers see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 573.

[2] S. 6 has been modified by the Bengal Land-revenue Regulation, 1825 (9 of 1825), s. 5, printed *post*, p. 579.

[3] These words in square brackets in s. 6 were substituted for the original words by the Repealing and Amending Act, 1891 (12 of 1891).

see the Bengal Land-revenue Regulation, 1825 (9 of 1825), s. 5, printed *post*, p. 579.

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(Secs. 7-9.)

all practicable despatch, on the outer door of the house in which the holder of the lands may have usually dwelt, or in some conspicuous place in the chief village within, or in the neighbourhood of, the lands proposed to be assessed.

Second.—The nazir shall return the order with an endorsement stating at what times and places the proclamation may have been fixed up.

Nazir's return how made,

The return of the nazir shall be filed with the Collector's proceedings in the case.

If the party shall not appear at the time limited in the proclamation, or if a party who may have been served with a notice shall not appear within the time therein limited, or if, having appeared, he shall refuse to give answer, the Collector [1] shall proceed to investigate and decide upon the case in the same manner as if the party had appeared, answered and entered into proof.

If party does not appear, or refuses to answer, case to be investigated.

7. In cases of land supposed to be liable to assessment under the provisions of section 8 of this Regulation, the Collector or other officer [1] exercising the powers of Collector shall institute a full and particular inquiry into the circumstances and condition of the land in question at the period of the decennial settlement, and, in cases of alluvion land, into the period of its formation.

What inquiry to be made.

[2] 8. When an inquiry in regard to land of the nature of that described in the foregoing section shall have been authorized, it shall be competent to the Collector, [1] with the sanction of the Board of Revenue or other authority [3] exercising the powers of that Board, previously obtained, to cause a survey or measurement to be made of all such lands, and of the estate to which such lands may be alleged to belong.

Collector with sanction of Board may cause survey or measurement.

9. It shall likewise be competent to the Collector, [1] in all cases of inquiry held under the provisions of this Regulation, to summon the patwari, gumashta or other person by whom the accounts relating to the lands proposed to be assessed, or to the estate to which the lands may be alleged to belong, are kept, and to require him to produce all accounts relating to such lands or estate, and to examine him on oath [4] to the truth of such accounts, and on any other matter relating to such accounts, or regarding such lands or estate, in the manner specified in section 22, Regulation 12 of 1817 [5].

Collector may summon patwari, and require accounts and examine on oath.

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 573.

[2] S. 8 has been modified by the Bengal Land-revenue Settlement Regulation, 1825 (9 of 1825), s. 5, printed *post*, p. 579.

[3] As to the exercise of functions of the Board of Revenue by other authorities, see the references cited in the footnote on p. 75 of Vol. I.

[4] As to oaths, see the Indian Oaths Act, 1873 (10 of 1873), in General Acts, 1868-76, Ed. 1898, p. 411.

[5] The Bengal Patwaris Regulation, 1817. S. 23 of the Regulation is printed *ante*, p. 120.

LAND-REVENUE.
THE BENGAL LAND-REVENUE
(Sects. 10-12.)

[Reg. 2]

And may require attendance of person claiming land, with his accounts.

[1] 10. It shall be further competent to the Collector [2] in such cases, with the sanction of the Board of Revenue or other authority [3] exercising the powers of that Board, to require the person claiming to be proprietor or farmer of the lands proposed to be assessed, or of the estates to which they are alleged to belong, to attend either in person or by representative, and to produce all the accounts relating to such lands or estate within a reasonable period, not being less than one week.

Notice to such person.

[4] 11. * * [5] Whenever the Collector or person [2] exercising the powers of Collector shall require the attendance of any proprietor or farmer, or of any patwari or gumashta or other officer for the purpose stated in the above section, he is to serve such proprietor or other person as aforesaid with a written notice under his official seal and signature, stating the purpose for which his attendance is required, the papers (if any) which he is to bring with him, and the period within which he is to attend.

Second. [Mode of serving notice.] Rep. by the Repealing Act, 1876 (12 of 1876).

Penalties on patwaris neglecting to produce accounts, falsifying them or giving false evidence.

[6] 12. If any patwari, gumashta or other person by whom the accounts of lands are kept, and who may be summoned by a Collector [2] or Commissioner under the provisions contained in sections 9 and 11 of this Regulation, shall neglect or omit to produce his original accounts on the requisition of the Collector [2] or Commissioner, or to give his evidence regarding them, or shall intentionally and deliberately give a false deposition on oath before the Collector [2] or Commissioner, when summoned and examined as aforesaid, or shall alter, fabricate, falsify or mutilate the accounts relating to such lands, or to the estate to which such lands are stated to belong, [7] [he] shall be and be held liable to the pains and penalties specified in sections 23 * * [8] and 27 of Regulation 12, 1817, [9] according as the provisions of one or other of those sections may be applicable to the offence committed by him.

[1] S. 10 has been modified by the Bengal Land-revenue Settlement Regulation, 1825 (9 of 1825), s. 5, printed *post*, p. 579.

[2] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 573.

[3] As to the exercise of functions of the Board of Revenue by other authorities, see the references cited in the footnote on p. 75 of Vol. I.

[4] S. 11 has been extended by the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 19 (2), *post*, p. 562, and modified by the Bengal Land-revenue Settlement Regulation, 1825 (9 of 1825), s. 5, *post*, p. 579.

[5] The word "First" was repealed by the Repealing Act, 1876 (12 of 1876), and is omitted.

[6] S. 12 has been extended by the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 19 (2), *post*, p. 562.

[7] This word "he" in s. 12 was inserted by the Repealing and Amending Act, 1891 (12 of 1891).

[8] The figures "26", in s. 12, which repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

[9] The Bengal Patwaris Regulation, 1817. It is printed *ante*, p. 116.

of 1819.] ASSESSMENT (RESUMED LANDS) REGULATION, 1819.

(Sec. 13.)

[1] 13. *First.*—If the holder of any lands in regard to which the Collector [2] shall have been authorized by the Board of Revenue or other authority [3] exercising the powers of that Board to institute the inquiry described by section 7 of this Regulation shall refuse or neglect to furnish the accounts relating to such lands within the period specified in the Collector's [2] requisition, the Board of Revenue or other authority [3] exercising the powers of that Board shall be competent to direct the lands to be immediately attached, and the rents collected on account of Government, in the same manner as if the lands were the property of Government.

Lands may be attached, if holders neglect to furnish accounts.

In such cases, however, it shall still be the duty of the Collector [2] to make a full inquiry into the title of the holder of the lands, and to transmit his proceedings to the Board, who will decide whether the lands shall be deemed permanently liable to assessment.

Inquiry in such cases.

Second.—Provided further that, if the holder of any lands assessed under the rules of this Regulation shall institute a suit in Court to contest the decision of the Revenue-authorities, and shall produce any accounts or documents besides such as he may have delivered to the Collector, the accounts or documents so produced shall not be received by the Court in evidence, nor shall they have any weight in the decision, any more than if they had never existed, unless he shall show good cause, to the satisfaction of the Court, for not having produced the said accounts or documents, and shall prove that he assigned such cause in answer to the Collector's [2] requisition, or show good cause for not having done so.

Accounts not furnished to Revenue authorities not afterwards to be received in evidence in suits to contest their decision. Exception.

[4] *Third.*—Provided also that, if any proprietor or farmer shall omit or refuse to attend, or to cause his officer or agent to attend, when duly summoned by the Collector [2] or Commissioner, by the time prescribed in the notice issued by the Collector [2] or Commissioner, or shall omit or refuse to furnish the accounts or documents required, and to show sufficient cause for such omission, the Board of Revenue or other authority [3] exercising the powers of that Board, are authorized and empowered to impose upon him such daily fine, [5] to be payable daily, until he complies with the Collector's [2] requisition, as

Fines for non-attendance of proprietor or agent, or for omission to furnish accounts.

[1] S. 13 has been modified by the Bengal Land-revenue Settlement Regulation, 1825 (9 of 1825), s. 5, printed *post*, p. 579.

[2] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 15, *post*, p. 578.

[3] As to exercise of functions of the Board of Revenue by other authorities, see the references cited in the footnote on p. 75 of Vol. I.

[4] Clause *Third* of s. 13 has been extended by the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 19 (2), *post*, p. 563.

[5] For power of Collector to impose a daily fine, see the Bengal Landholders' Attendance Act, 1848 (20 of 1848), *post*, p. 610.

they may think adequate to his situation and circumstances in life, reporting, however, the amount for the information of the [1] [Governor General in Council.]

The fine, when confirmed by Government, is to be levied by the same process [2] as is prescribed for the recovery of arrears of revenue.

Penalties for
resistance of
process.

[8] 14. If any zamindar or other person shall resist, or cause to be resisted, the attachment or measurement of lands which the Board of Revenue or other [4] authority exercising the powers that Board shall have authorized the Collector [5] or Commissioner to attach or measure under the provisions of this Regulation, or shall resist or cause to be resisted any process duly issued by the Collector [5] or Commissioner to compel a patwari, gumashta or other officer to produce his accounts, and to give his evidence respecting them under the provisions contained in section 9 of this Regulation, it shall be competent to the Board of Revenue or other [4] authority exercising the powers of that Board, on being satisfied that he is guilty of the charge, to adjudge the zamindar or other person so offending to pay such fine to Government as may appear to it proper, upon a consideration of his situation and circumstances in life, and of the offence which he may have committed, and to levy the fine in the mode [2] prescribed for the recovery of arrears of revenue

Proviso.

Provided, however, that, if the fine shall exceed five hundred rupees, the Board shall submit a report of the case to the [1] [Governor General in Council], and shall not proceed to levy the fine until they shall receive authority from Government for that purpose.

Procedure
when parties
attend and
produce title-
deeds.

[8] 15. When the party whose lands it may be proposed to assess shall appear in conformity with the notice or summons, and shall deliver up his title-deeds, the Collector [5] shall give a receipt for them, and, after duly examining them, shall deliver to the party a statement of the grounds on which his land may appear liable to assessment, with copies, on plain paper, of all documents on which his opinion may be founded.

[1] The words "Governor General in Council" are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903) Sch. 2, printed in Vol. I, p. 42.

[2] See the enactments printed under the head "Recovery of Public Demands" in Vol. IV of this Code.

[3] S. 14 has been extended by the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 19 (2), *post*, p. 562.

[4] As to the exercise of functions of the Board of Revenue by other authorities, see the references cited in the footnote on p. 75 of Vol. I.

[5] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), section 85, *post*, p. 573.

[6] S. 15 has been modified by the Bengal Land-revenue Settlement Regulation, 1825 (9 of 1825), printed *post*, p. 576.

[of 1819.] ASSESSMENT (RESUMED LANDS) REGULATION, 1819.

(Secs. 16-19.)

The Collector [1] shall then desire the party to deliver a written answer within seven days.

16. It shall be the duty of the Collector or other officer [1] exercising the powers of Collector carefully to number, mark, date and sign all documents produced by a zamindar or other person in possession of the lands proposed to be assessed in support of his claim to hold them free of assessment, or as parcel of an estate for which a permanent settlement shall have been concluded, and to insert in his proceedings the title and number of such documents, so that no doubt may exist in regard to their having been exhibited before him; and the Collector [1] shall, before proceeding to judgment, warn the party that no accounts or other documentary evidence of any kind which he shall not produce before him, and for not producing which he may not assign good and sufficient cause, will be received at any future period, either by the Revenue or Judicial Authorities, and shall record his having done so on the face of his proceedings.

Procedure in respect of documents produced.

17. On receiving the answer of the party the Collector [1] shall summon any witnesses he may deem necessary to support the claim of Government, with any which the party may desire to have summoned on his behalf, and shall take their depositions in judicial form, and in the presence of the party or his authorized agent.

Witnesses for and against claim of Government to be examined.

18. The Collector [1] shall carefully examine all documents that may be produced by the party, and shall likewise give the party access to inspect all documents on which he may rely in proof of the liability of the land to assessment.

Examination of documents.

[2] 19. *First.*—The Collectors and other officers [1] exercising the powers of Collectors are hereby authorized to summon witnesses and administer oaths, [3] or cause the execution of solemn declarations in lieu thereof, in all cases brought before them under this Regulation * * * * [4].

Collector's authority to summon witnesses and administer oath.

Second. [Penalties for perjury applicable to witnesses who affirm.] *Rep. by the Repealing Act, 1873 (12 of 1873).*

Third. [Penalties for resistance of process.] *Rep. by the Repealing Act, 1876 (12 of 1876).*

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post.* p. 573.

[2] S. 19 has been extended by the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 19 (2), *post.* p. 562.

[3] As to oaths, see the Indian Oaths Act, 1873 (10 of 1873), in General Acts, 1868-73, Ed. 1898, p. 411.

[4] Portion repealed by the Repealing Act, 1874 (18 of 1874), is omitted.

LAND-REVENUE.
THE BENGAL LAND-REVENUE
(Secs. 20, 21)

[Reg. 2]

Procedure on
completion of
inquiry.

20. Having closed his proceedings, the Collector [1] shall record his opinion in a * * [2] rubakari detailing the grounds on which it is founded, and whether the lands appear liable to assessment or otherwise, and shall forward his proceedings to the Board of Revenue or other authority [3] exercising the powers of that Board, in such mode as may be directed by that authority, furnishing the party at the same time with a copy on plain paper of the final rubakari aforesaid, and reporting his having done so to the Board or other authority [3] as aforesaid.

Procedure of
Board on re-
ceipt of Col-
lector's pro-
ceedings.

21. *First.*—The Board of Revenue or other authority [3] aforesaid, after calling for any further evidence which, on a consideration of the Collector's [1] proceedings, they may deem wanting, shall, on a day to be fixed by a public notice affixed in the office, not being less than six weeks from the date on which the Collector [1] may have furnished the party with a copy of his final rubakari, and after hearing anything which the party, if in attendance, may wish to urge in his own behalf, proceed to pass judgment in the case, and shall record their opinion in a * * [2] rubakari, delivering a copy thereof to the party on his requisition to that effect.

Final ruba-
kari.

Second.—The final rubakarīs which the Collectors [1] and the [4] [Board] are by the provisions of this section directed to record shall contain a distinct statement of the subject-matter of the case, the grounds on which the decision may be given, the names of the witnesses whose depositions may have been taken and the title of every exhibit read.

In what cases
decision of
Boards final.

Third.—If the Board of Revenue or other authority [3] aforesaid pronounce against the assessment, the proceedings shall be considered final, except on proof in a Court of Judicature of fraud or collusion in the previous inquiry.

If land de-
clared liable
to assessment,
Collector to
fix assessment.

Fourth.—In the event of the Board's declaring the lands liable to ment, the Collector [1] shall inform the party or his vakīl of the decision of the Board, and shall proceed to ascertain the limits of the land, and shall fix an assessment on the principles of the general Regulations on such information as may be procurable.

[1] As to the exercise of functions of Collectors by other officers) see the Bengal Land revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 578.

[2] The word "Persian", in ss. 20 and 21, which was repealed by the Repealing Act, 1874 (16 of 1874), is omitted.

[3] As to the exercise of functions of the Board of Revenue by other authorities, see the references cited in the footnote on p. 75 of Vol. I.

[4] The word "Board", in s. 21 (2), was substituted for the word "Board" by the Repealing and Amending Act, 1908 (1 of 1908).

of 1819.] ASSESSMENT (RESUMED LANDS) REGULATION, 1819.

(Sec. 22.)

[1] 22. *First*.—If the party shall, within a fortnight of his receiving intimation of the Board's decision, tender to the Collector [2] responsible security for the payment from that date of the jama which may eventually be fixed on the land, with interest at the rate of twelve *per cent.*, and shall engage to institute a suit in the Court in which the case may be cognizable within ten days, commencing from the date of the deed of security, or (if the Court shall be shut, and shall not be opened until after the expiration of such ten days) within three days, calculating from the day on which it may be opened, to try the justness of the demand, the Collector [2] shall leave the party in possession as before, reporting the circumstance for the information of the Board :

When party may be left in possession of land.

Provided, however, that in such cases the party shall produce all his accounts of collections for the information of the Collector [2] in estimating the amount of the security to be required. *Proviso.*

Second.—If the party be willing to give security for a portion only of the jama eventually assessable on the land, it shall be competent to him to do so on the conditions above specified.

Procedure of Collector if party do not furnish full security.

In this case the Collector [2] shall, under the orders of the Board [3] either hold the lands khas or farm them for such period as the Board may direct, and shall pay to the party a portion of the collections proportionate to the amount for which he may be willing and able to give responsible security.

Third.—It shall be competent to the Court to direct the Collector [2] to take the security offered by the party, if he shall refuse to do so, and the Court shall be satisfied that it is sufficient; but it shall rest with the Collector, [2] subject to the directions of the Board, [3] to fix the amount for which the surety is to be held bound.

Court may determine on sufficiency of security tendered.

Fourth.—The amount shall not, in the first instance, exceed the estimated annual revenue assessable on the lands, or the amount receivable by the party in one year, with interest; but if, at the expiration of one year from the date on which the party may receive intimation of the Board's decision, the suit shall still be pending, it shall be competent to the Collector [2] to require additional security for the same amount.

Amount of security how regulated.

[1] Section 22 has been modified and restricted by the Bengal Land-revenue Settlement Regulation, 1825 (9 of 1825), ss. 5 and 8, respectively, *ante post*, pp. 579 and 584, and has also been modified by the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1828 (3 of 1828), s. 10, *post*, p. 597.

[2] As to the exercise of functions of Collector, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 578, by other officers, *see* the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 578.

[3] As to the exercise of functions of the Board, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 578, of Revenue by other authorities, *see* the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 578.

Security in
case of
mukarraris.

Fifth.—In mukarraris the parties giving security, and intending to sue, shall continue to pay the mukarrari jama, and will be required to give security for the remaining revenue which may be eventually demandable from them.

Final assess-
ment.

[1] 23. If the party do not give security, or, having given security, neglect to sue, the Collector [2] shall proceed to the final assessment of the land.

Limitation
of suits in
Civil Courts.

[1] 24. *First.*—Persons whose lands may be assessed, either in failure to give security or to institute a suit within the prescribed time, shall nevertheless be entitled to sue any time within one year from the date of their being informed of the Board's decision; but after the above period shall have elapsed the decision of the Board shall be final and conclusive:

Proviso.

Provided, however, that in cases in which the party may be able to show good and sufficient cause for not having sued within the said period, such as minority or absence, no limitation as to time shall prevail other than that generally prescribed by the existing Regulations in regard to private claims.

Second. [Further proviso.] *Rep. by the Repealing Act, 1874 (16 of 1874).*

25. [Courts in which suits under this Regulation are to be instituted.] *Rep. by the Repealing Act, 1874 (16 of 1874).*

Appeal from
Zila to Sadar
Court.

[3] 26. *First.*—In cases instituted in the Zila Court * * * * [4] an appeal shall be received by the Court of Sadar Diwani Adalat * * * [4].

Procedure on
such appeals.

Second.—* * * [4]. The Sadar Diwani Adalat * * *, [4] in all cases of * * * [4] appeal being preferred in conformity with the provisions of this Regulation, shall, together with the decree against which such appeal may be lodged, likewise peruse the final rubakari filed in the case by the Board of Revenue or other [5] authority exercising the powers of that Board; and, if on a consideration of those documents the decision of the Court should appear unjust or erroneous or doubtful, or its proceedings in the case manifestly irregular or imperfect, or if, from the nature of the cause, as

[1] Sections 23 and 24 have been modified by the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1828 (3 of 1828), s. 10, *post*, p. 597.

[2] As to the exercise of functions of Collectors by other officers see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 573.

[3] Section 26 is modified by the Bengal Revenue-free-Lands Regulation, 1825 (14 of 1825), s. 6, printed *post*, p. 594, and is saved by the Bengal Land-revenue Regulation, 1828 (3 of 1828), s. 10 (4), printed *post*, p. 598.

[4] Words repealed by the Repealing Act, 1874 (16 of 1874), are:

[5] As to the exercise of functions of the Board of Revenue authorities, see the references cited in the footnote on p. 75 of Vol. I.

of 1819.] ASSESSMENT (RESUMED LANDS) REGULATION, 1819.

(Sec. 28.)

stated in the decree or otherwise, it shall appear to them of sufficient importance to merit a further investigation; in appeal, they shall admit [1] [an appeal.]

27. [*Stamped paper and fees.*] *Rep. by the Repealing Act, 1874 (16 of 1874).*

28. *First.*—On the production of any written document purporting to be a farman of any King of Delhi, or to be a sanad, parwana or other grant of any Wazir, or of any Nawab, Raja or other potentate or person formerly exercising authority in any part of the Provinces and territories now subject to the British Government, it shall be the duty of the Revenue and Judicial Authorities before whom such document may be produced to ascertain the validity and authenticity of it, by reference to such offices and records, and by the examination of such living witnesses, as may be likely to lead to the due appreciation thereof; and the said authorities shall not receive such document in evidence merely on the credit of the seal, or other attestations impressed upon it, without some external evidence in corroboration of its authenticity.

Validity of farmans, sanads or grants to be carefully ascertained.

Second.—Provided also that no document of the above description which may be produced to any Court or Adalat shall be received, nor any proceedings held thereon, nor any faith given thereto, unless it shall be proved that the said document has been duly registered under the rules and requisitions of Regulations 19 [2] and 37 [3], 1793; 41 and 42, 1795 [4]; 8, 1800 [5]; 31 and 36, 1803 [4]; and 7, 1803 [6]; or unless due cause be shown for the non-registry.

Such deeds not to be received unless registered.

29. [*Regulation applied to cases in which Collector suspects validity of original tenures of land, subsequently commuted for money-pensions.*] *Rep. by the Repealing and Amending Act, 1891 (12 of 1891).*

30. [*Trial by Collectors of resumption and other suits.*] [7] *Rep. by the Bengal Land-revenue Resumption Act, 1862 (Ben. Act 7 of 1862).*

[1] The original words were "a special appeal." The words "special" was repealed by the Repealing Act, 1874 (16 of 1874), and the words "an appeal" were substituted by the Repealing and Amending Act, 1891 (12 of 1891).

[2] The Bengal Revenue-free Lands (Non-Badshahi Grants) Regulation, 1793. It is printed *ante*, p. 468.

[3] The Bengal Revenue-free Lands (Badshahi Grants) Regulation, 1793. It is printed *ante*, p. 465.

[4] Bengal Regs. 41 and 42 of 1795 and 31 and 36, 1803 were repealed (except in certain areas) by the N. W. Provinces Land-revenue Act, 1873 (19 of 1873).

[5] The Bengal Revenue-free Lands Regulation, 1800. It is printed *ante*, p. 404.

[6] Bengal Reg. 7 of 1803 was repealed by Act 29 of 1871.

[7] Suits by proprietors, etc., for the resumption of revenue and suits by persons claiming to hold land exempt from payment of revenue, are now heard by the Civil Courts like ordinary civil suits—see the Bengal Land-revenue Resumption Act, 1862 (Ben. Act 7 of 1862), s. 2, *post*, p. 612.

THE BENGAL LAND-REVENUE ASSESSMENT (RESUMED [Reg. 2 of 1819.]
LANDS) REGULATION, 1819.

(Sec. 31.)

Regulation
not to affect
right of pro-
prietors to
waste-land
guaranteed at
permanent
settlement.

31. First.—Nothing in the present Regulation shall be considered to affect the right of the proprietors of estates for which a permanent settlement has been concluded to the full benefit of all waste-lands included within the ascertained boundaries of such estates respectively at the period of the decennial settlement, and which have since been or may hereafter be reduced to cultivation. The exclusive advantages resulting from the improvement of all such lands were guaranteed to the proprietors by the conditions of that settlement, and it being left to the Courts of Judicature to decide on all contested cases whether lands assessed under the provisions of this Regulation were included at the period of the decennial settlement within the limits of estates for which a settlement has been concluded in perpetuity, and to reverse the decision of the Revenue-authorities in any case in which it shall appear that lands which actually formed, at the period in question, a component part of such an estate, have been unjustly subjected to assessment under the provisions of this Regulation, the zamindars and other proprietors of land will be enabled, by an application to the Courts, to obtain immediate redress in any case in which the Revenue-authorities shall violate or encroach on the rights secured to them by the Permanent Settlement.

Nor to war-
rant claim to
additional re-
venue from
lands perma-
nently
assessed on
plea of error
or fraud.
Exception.

Second.—It is further hereby declared and enacted that all claims by the Revenue-authorities on behalf of Government to additional revenue from lands which were at the period of the decennial settlement included within the limits of estates for which a permanent settlement has been concluded, whether on the plea of error or fraud, or on any pretext whatever, saving, of course, the case of lands expressly excluded from the operation of the settlement, such as lakhiraj and thanadari lands, shall be and be considered wholly illegal and invalid.

[Reg. 4 of 1821.] THE BENGAL LAND-REVENUE (ASSISTANT COLLECTORS) REGULATION, 1821.

THE BENGAL LAND-REVENUE (ASSISTANT COLLECTORS) REGULATION, 1821 [1]

(REGULATION 4 OF 1821).

[19th January, 1821.]

A Regulation * * * * * [2] for explaining the duties of an Assistant Collector of revenue, and for defining the duties and powers vested in Assistant Collectors or other officers appointed to the charge of the revenues of parganas or other local divisions, or employed in the performance of any portion of the functions ordinarily belonging to the Collectors of land-revenue.

1. * * * * * [3] Whereas it is expedient to explain the duties which may be performed by the Assistants to the Collectors of revenue, and to define the duties and powers vested in Assistant Collectors or other officers when appointed to the charge of the revenues of parganas or other local divisions, or when employed in the performance of any portion of the functions ordinarily belonging to Collectors of the land-revenue ; the following

Preamble.

[1] SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), printed in Vol. I, p. 18.

LOCAL EXTENT.—This Regulation was passed for the whole of Bengal—see section 1.

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), section 6 (printed, General Acts, 1868-76, Ed. 1898, p. 484), to be in force throughout Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), section 3, to be in force in the following Scheduled Districts, namely:—

~~West Lalpaigni in the Lalpaigni District—see Vol. V, Part V, B (a);~~

the Western Hills, the Terai and the Dumson Sub-Division, in the Darjeeling District—see Vol. V, and

the Hazaribagh, Ranchi, Palamau and Manbhum Districts, and Pargana Dhalbhum in the Singhbhum District, in the Chota Nagpur Division—see *ib.*, Part V, B (b).

The application of the Regulation in the de-regulationised tracts in Bengal is barred as follows, namely:—

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), section 3 (2), printed in Vol. I, p. 257;

~~the Angul Hill tracts Regulation, 1900 (1 of 1900), section 3 (2), printed in Vol. I, p. 208, and~~

in the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation (3 of 1872), section 3 (2), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), section 3, printed in Vol. I, p. 294.

RULES.—As to the employment and training of Assistant Collectors, see the Board's Rules, 1902, pages 60, 61, 77 to 82.

[2] Portion of the title which was repealed by the Repealing and Amending Act, 1891 (12 of 1891), is omitted.

[3] Portion of section 1 which was repealed by the Repealing Act, 1876 (12 of 1876), is omitted.

2. 20. 20

2. 2.

9

rules have been enacted, to be in force from the date of their promulgation throughout the territories subject to the Presidency of Fort William.

2, 3. [Power to confer magisterial powers on Collectors, and vice versa; oath to be taken by such Collectors and Magistrates.] Rep. by the Repealing Act, 1873 (12 of 1873).

4-6. [Magistrates and Collectors, in the exercise of such powers, to be guided by Regulations, etc., in force; Magistrates employed in the collection of revenue to preserve records; rules declaring Collector amenable to Zila and City Courts to be applicable to such Magistrates.) Rep. by the Repealing Act, 1876 (12 of 1876).

Institution of
suit in Zila
Court for
recovery of
public
revenue.

7. In the institution of suits for the recovery of the public revenue, or in any case in which the institution of a suit by the Collector [1] in the Zila**[2] Courts is authorized or directed [3] [by law], a Magistrate or Joint Magistrate or Assistant to a Magistrate, employed in the collection of the revenue, not being himself in charge of the office of Judge of a Zila**[2] Court, shall proceed according to [4] [the law for the time being in force] for the guidance of the Collectors under similar circumstances.

Power to
alter limits
of collector-
ships, and
number of
officers em-
ployed as
Collectors.

8. *First*.—It is hereby declared and enacted that it is and shall be lawful for the [5] [Governor General in Council] to cause such alterations to be made in the limits of the several Collectorships, and in the number of the officers employed as Collectors of land-revenue, as may from time to time appear expedient, as well as to vest such officers, being covenanted servants * * * [6] with authority to exercise the whole or any part of the functions ordinarily exercised by Collectors of land-revenue in such mahal or mahals belonging to such district or districts as may from time to time be deemed expedient; and any officers so employed shall perform their prescribed duties in the same manner, and subject to the same conditions and liabilities, as attached to Collectors of land-revenue in regard to such duties.

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 573.

[2] The words "or City", in s. 7, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[3] The words "by law," in s. 7, were substituted for the words "by the Regulations" by the Repealing and Amending Act, 1903 (1 of 1903), Sch. 2, printed in Vol. I, p. 42.

[4] These words in square brackets in s. 7 were substituted for the words "the Regulations already in force" by the Repealing and Amending Act, 1903 (1 of 1903), Sch. 2, printed in Vol. I, p. 42.

[5] The words "Governor General in Council" are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. 2, in Vol. I, p. 42.

[6] The words "of the Honourable Company", which were repealed by the Repealing Act, 1876 (12 of 1876), are omitted.

of 1821.] (ASSISTANT COLLECTORS) REGULATION, 1821.

(Sec. 8.)

Second.—It shall also be competent to the Board of Revenue or other [1] authority exercising the powers of that Board to depute any of the officers subordinate to their authority to exercise and perform all or any of the powers and duties ordinarily vested in Collectors of land-revenue within such local limits as they may judge expedient:

Power to depute subordinate officer to perform Collector's duties.

Provided, however, that in all such cases the Board or other [1] authority aforesaid shall, on the day in which they may depute any officer as aforesaid or as soon after as practicable, report their having done so for the information and orders of the [2] [Governor General in Council].

Third.—The Collectors [3] of revenue are hereby authorized, with the sanction of the Board of Revenue [1] * * * [4] to delegate to their Assistants any part of their prescribed duties, which, from the extent of their general business or other cause, they may be unable to give due attention to themselves:

Power of Collectors to delegate part of their duties to their assistants.

Provided always that in the event of a Collector [3] deputing his Assistant to make local inquiries, or for any other purpose connected with the collection of the public revenue, he shall immediately report the same for the information and orders of the Board of Revenue [1] * * * [4] to which he may be subordinate.

Fourth. [Oath to be taken by Assistant Collector.] *Rep. by the Repealing Act, 1873 (12 of 1873).*

Fifth.—Assistants or other [3] officers exercising the powers of Collectors of revenue, or any portion thereof, under the provisions of this Regulation, shall be guided in every respect [5] [by the laws] which have been or may be enacted for the management and collection of the revenue, as far as the same may be applicable to the duties committed to them respectively, and shall be considered responsible for the due performance of the duties entrusted to them, and shall be amenable to the Civil Courts of Judicature for any acts done by them in their official capacity, in opposition [6] [to law], in the same manner, and under the same rules, as the Collectors of revenue.

Assistants, etc., to be guided by Regulations, responsible for performance of duties, and amenable to Civil Courts.

[1] As to the exercise of functions of the Board of Revenue by other authorities, see the references cited in the footnote on p. 75 of Vol. I.

[2] The words "Governor General in Council" are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. 2, in Vol. I, p. 42.

[3] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 573.

[4] The words "or the Boards of Commissioners", in s. 8, clause *Third*, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[5] The words "by the laws" were substituted for the words "by the Regulations" by the Repealing and Amending Act, 1903 (1 of 1903), Sch. 2, printed in Vol. I, p. 42.

[6] The words "to law" were substituted for the words "to the Regulations" by the same Act.

THE BENGAL LAND-REVENUE SETTLEMENT REGULATION, 1822

(REGULATION 7 OF 1822).

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[1] This Table has been newly added.

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THE BENGAL LAND-REVENUE SETTLEMENT REGULATION, 1822 ^[1]

(REGULATION 7 OF 1822).

[8th August, 1822.]

A Regulation for declaring the principles according to which the

[1] **SHORT TITLE**.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), printed in Vol. I of this Code, p. 18.

LOCAL EXTENT.—This Regulation, as originally passed, extended to the District of Cuttack and the Pargana of Pataspur and its dependencies—*see* s. 1.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the following Scheduled Districts, namely :—

the Hazaribagh, Ranchi, Palamau and Manbhum Districts, and Pargana Dhalbhum in the Singhbhum District, in the Chota Nagpur Division—*see* Vol. V, Part V B (b).

The application of the Regulation in the de-regulationised tracts in Bengal is barred as follows, namely :—

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), s. 3 (2), printed in Vol. I, p. 257 ;

(2)

—*see*, and

in the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation (3 of 1873), s. 3 (2), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s. 3, printed in Vol. I, p. 294.

S. 2 (6) and ss. 1 to 35 of this Regulation were extended, by the Bengal Land-revenue Settlement Regulation, 1825 (9 of 1825), s. 2 (printed *post*, p. 577), to—

(1) all lands not included within the limits of estates for which a permanent settlement had been concluded in the manner prescribed by the Bengal Decennial Settlement Regulation, 1793 (8 of 1793—*ante*, p. 456) ;

(2) all estates held *khas* ;

(3) the Sundarbans ;

settlement of the land-revenue in * * * * [1] Cuttack, Pataspur and its dependencies, is to be hereafter made, and the powers and duties belonging to Collectors or other officers employed in making, revising or superintending settlements; * * * * [2] for defining, settling and recording the rights and obligations of various classes and persons possessing an interest in the land, or in the rent or produce thereof; and for vesting the Revenue-authorities with judicial cognizance in certain cases of suits and claims relating to land, the rent and produce of land.

Preamble.**1. Whereas the existing settlement of the land-revenue in the Ceded**

- (4) the hill lands of Bhugulpur; and
- (5) certain forests and wastes, and all estates bordering thereon.

It is further declared by the Bengal Land-revenue Settlement Regulation, 1825 (9 of 1825), s. 3 (printed *post*, p. 574), that Collectors or other officers, in Bengal, Bihar or Orissa, may be invested with the powers specified in s. 20 of the present Regulation, and that ss. 21 to 35 of the present Regulation shall apply to areas in which this has been done.

EXTENSION OF APPLICATION.—This Regulation has been extended—

- (a) to all settlements made under the Bengal Alluvial Land Settlement Act, 1858 (31 of 1858)—*see* s. 2 of that Act, in Vol. I, p. 62;
- (b) to estates dealt with under the Bengal Land-revenue Sales Act, 1859 (11 of 1859)—*see* s. 60 of that Act, in Vol. IV of this Code; and
- (c) to proceedings under the Chota Nagpur Tenures Act, 1869 (Ben. Act 2 of 1869—*see* s. 4 of that Act, *ante*, p. 348).

PARTIAL REPEAL.—The following portions of this Regulation were repealed by the Bengal Land-revenue (Settlement and Deputy Collectors) Regulation, 1833 (9 of 1833), ss. 2 and 3, (noted *post*, p. 606), namely:—

- (1) "so much as prescribes, or has been understood to prescribe, that the amount of jama to be demanded from any mahal shall be calculated on an ascertainment of the quantity and value of actual produce or on a comparison between the costs of production and value of produce," and
- (2) "so much as prescribes, or has been understood to prescribe, that the judicial investigation into and decision on questions of disputed private claims shall be conducted simultaneously with the ascertainment of and determination on the amount of the Government demand."

SAVING.—Nothing in the Bengal Decennial Settlement Regulation, 1793 (5 of 1793), s. 51 (*ante*, p. 464), or in the Bengal Rent Act, 1859 (10 of 1859), ss. 13, 14 and 17 (*ante*, pp. 185 and 186), is to affect settlement-proceedings under the present Regulation—*see* the Bengal Rent Settlement Act, 1879 (Ben. Act 8 of 1879), s. 4, *ante*, p. 238.

APPLICATION OF BEN. ACT 8 OF 1879.—The Bengal Rent Settlement Act, 1879 (Ben. Act 8 of 1879), applies to certain settlement-proceedings under the present Regulation—*see* *ib.*, s. 14, *ante*, p. 241.

DURATION OF SETTLEMENTS.—As to the period during which Collectors, etc., are to be considered to be engaged in making and revising settlements under this Regulation, *see* the Bengal Land-revenue Settlement Regulation, 1828 (4 of 1828), *post*, p. 602.

[1] The words "the Ceded and Conquered Provinces, including," which were repealed by the Repealing Act, 1903 (1 of 1903), are omitted.

[2] The words "for continuing, with certain exceptions, the existing leases within the said Provinces for a further term of five years," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

of 1822.]

SETTLEMENT REGULATION, 1822.

(Sec. 1.)

Provinces will expire with the present Fasli year, [1] and it has therefore become necessary to declare and enact the principles and rules according to which the demand of the State is thereafter to be regulated, and the manner in which future settlements and revisions of settlements are to be conducted : [2]

And whereas, a moderate assessment being equally conducive to the true interests of Government and to the well-being of its subjects, it is the wish and intention of Government that in revising the existing settlement the efforts of the Revenue-officers should be chiefly directed not to any general and extensive enhancement of the jama but to the objects equalizing the public burthens, and of ascertaining, settling and recording the rights, interests, privileges and properties of all persons and classes owning, occupying, managing or cultivating the land, or gathering or disposing of its produce, or collecting or appropriating the rent or revenue payable on account of land, or the produce of land, or paying or receiving any cesses, contributions or perquisites to or from any persons resident in, or owning, occupying or holding parcel of, any village or mahal :

And whereas, with these views and intentions, the Governor General in Council has considered it to be expedient and proper, with the exception hereinafter specified, to continue the existing assessment in all cases in which the settlement has been formed with zamindars or other persons acknowledged as proprietors or possessors of a permanent interest in the mahals for which they may have engaged, until a new settlement can be made, combining, which the revision of the Government jama and the deliberate investigation of the facts by the determination of which its amount must be regulated, a full inquiry into, and a careful settlement of, the rights and interests of all classes connected with the land :

And whereas the same principles are applicable to the district of Cuttack, the pargana of Pataspur and its dependencies, of which the settlement will expire with the present "Amal" year [3] :

And whereas it has appeared expedient to make special provision for the early settlement of * * * [4] the pargana of Pataspur and its dependencies :

[1] i.e., the 1st September, 1822.

[2] The portion printed in italics is obsolete, in consequence of the repeal of Regulation 7 of 1822 in the North-Western Provinces by the N. W. P. Land-revenue Act, 1873 (19 of 1873).

[3] i.e., the 2nd September, 1822.

[4] The words "the district of Gorakhpur, the Chakla of Azamgarh", which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

* * * * [1]

And whereas it is the desire of Government that the proceedings held, and the records formed, by the Collectors when making settlements or otherwise specially employed in conducting inquiries of the above nature should be such as that all demands, claims and suits may be adjudged and determined according to the facts therein stated, until the same shall have been formally altered, or it shall be shown, by the result of a full investigation in a regular suit, that the proceeding or record of the Collector was erroneous or incomplete;

And whereas it is necessary to declare and define the powers and authority to be vested in Collectors in the conduct of the said inquiries, and the adjustment of the differences arising out of or made known by them :

And whereas it further appears advisable that the revenue-officers should in certain cases be vested with authority judicially to receive, hear, investigate and determine suits, claims and demands of the above description :

And whereas it appears to be expedient to declare and explain the views and intentions of Government relative to the rights to be enjoyed and exercised by the sadar malguzars or persons admitted to engage for the payment of the Government revenue, and by persons collecting the rents of the land or revenue of Government, without being subject to the payment of any portion of it to the public treasury, such as jagirdars and other owners or managers of lakhiraj lands; and it is particularly necessary, in the case of estates held in pattidari or bhaiya chāra tenure, to make further provision for protecting the sharers who have not been admitted to engagement with Government against the encroachments of the sadar malguzar, and likewise to secure the latter against the consequences of the embezzlement or misappropriation by the former of the funds whence the Government revenue ought to be discharged;

For the purposes and objects above specified the following rules have been enacted, to be in force * * * [2] in the district of Cuttack, the pargana of Pataspur and its dependencies :

2. *First to Fifth.* [*Extension of existing settlements in Ceded Provinces and Cuttack ; proclamation of proposed extension ; Gorakhpur and Azamgarh*

[1] Portion relating to "the Conquered Provinces" and "the Province of Bundelkhand", which was repealed by the Repealing and Amending Act, 1908 (1 of 1908), is omitted.

[2] The words "from the date of their promulgation, throughout the Ceded and Conquered Provinces," which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

of 1822.]

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(Sec. 3.)

excluded ; existing leases in Palaspur to continue from year to year.] Rep. by the Repealing Act, 1874 (16 of 1874).

Sixth. * * * * * [1]—If any zamindar or other malguzar [2] [acknowledged as the proprietor or possessor of a permanent interest in the mahal for which he has engaged], who may now or hereafter be under engagement for the payment of the revenue demandable by Government on account of any mahal, shall be allowed by the Revenue-authorities to continue in the management of such mahal after the expiration of such engagement, and shall do or direct any act relative to the cultivation or management of such mahal, or the settlement, assessment or collection of the rents of such mahal, in or on account of any year subsequent to the term of such engagement, such zamindar or other malguzar aforesaid shall be held to be responsible on account of such year for the same revenue as may have been demandable from him for the year preceding, unless otherwise specially agreed upon :

General rule relative to zamindars holding on after expiration of their leases.

Provided further that it shall be competent for Collectors or other officers exercising the power of Collectors, with the sanction of the Board or Commissioner to whom they may be subordinate, at any time, not being more than six months previous to the expiration of a settlement, to call upon the zamindars or other malguzars as aforesaid to declare whether or not they are willing to continue their engagements for the ensuing year ; and, if such zamindars or other malguzars shall not forthwith notify their refusal to do so, they shall be held to have agreed to such an extension of their leases at the existing assessment, and so on, from year to year, as aforesaid.

Zamindars or other malguzars who may be allowed to hold on from year to year shall not be chargeable with any additional revenue on account of any year, unless the Collector or other officer exercising the powers of Collector shall notify his intention to revise the assessment on or before the commencement of such year, unless where otherwise specially provided.

3. With respect to estates which are at present let to farm, a settlement thereof shall be made on the expiration of the existing leases for such a period as the [3] [Governor General in Council] may direct.

Settlements how made.

A preference shall be given to the zamindars or other persons possessing a

[1] Formal words which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[2] These words in square brackets in section 2 (6) were substituted for the words "as aforesaid" by the Repealing and Amending Act, 1908 (1 of 1908), Sch. 2, printed in Vol. I, p. 43.

[3] The words "Governor General in Council" are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1908 (1 of 1908), Sch. 2, Vol. I, p. 43.

permanent property in the mahals, if willing to engage for the payment of the public revenue on reasonable terms :

Provided also that, in cases wherein such mahals may be let in farm, the term of the lease granted to the farmers shall not exceed twelve years.

The above rules shall likewise be applicable to estates now held khas.

So in any case wherein the zamindars and other proprietors may refuse to continue their existing engagements, or to enter into new engagements on equitable terms, it shall be competent to the Revenue-authorities to let the lands in farm for such period, not exceeding twelve years, as the [1] [Governor General in Council] shall appoint, or to assume the direct management of them, and to retain them under khas management during the period aforesaid or such shorter period as may be judged proper :

Provided further that, if in any case it shall appear to the Revenue-authorities that the continuance or admission of any Raja, zamindar, talukdar or other person who may have engaged, or may claim to engage, for any mahal or mahals, in or to the management of such mahal or mahals, would endanger the public tranquillity or otherwise be seriously detrimental, it shall be their duty to report the circumstance to Government, and it shall be competent to the [1] [Governor General in Council] [2] [by an order in Council], to cause such mahal or mahals to be held khas or let in farm, for such term as may appear expedient and proper, not exceeding the period above specified.

Admission of particular persons to engage for payment of revenue, not to bar Revenue-officers from interfering to adjust rights of other persons or lessees.

4. In admitting particular parties to engage it was in no degree the intention of Government to compromise private rights or privileges, or to vest the sadar malguzars with any rights not previously possessed by them, excepting in so far as their interest in the land for which they may have engaged might be improved by the limitation of the Government demand, or otherwise by the resignation in their favour of rights previously vested in Government itself, or as it may have been found necessary, with a view to the punctual realization of the public dues, to vest the sadar malguzar, by special Regulation, with authority of distraint, or other powers of coercion over the under tenants.

On the contrary, it is the anxious desire of Government, and the bounden duty of its officers, to secure every one in the possession of the rights and privileges which he may lawfully possess or be entitled to possess.

In pursuance of this principle, it is hereby declared and enacted that

[1] The words " Governor General in Council " are to be read as if the words " Local Government " were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. 2, Vol. I, p. 43.

[2] The words " by an order in Council " are to be read as if the words " by notification in the local official Gazette " were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. 2, in Vol. I, p. 43.

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(Sec. 5.)

nothing in the above provisions for extending the existing leases, or in the stipulations of the existing settlements, do or shall be construed to bar the Revenue-officers, duly empowered in that behalf, from interfering to adjust the respective rights of the sadar malguzars and their under-tenants; nor shall any claims to a remission or abatement of revenue be admitted on the ground of any decision or order passed in that behalf; but, if such decision or order shall operate materially to reduce the profits derived by any zamindar or malguzar from the mahal owned or managed by him, it shall be competent for such zamindar or malguzar to relinquish his engagements, and the Revenue-officers shall in such case proceed to make a settlement of the mahal *de novo*.

5. First.—[*Repeal of provisions relative to malikana and nankar.*] Rep. by the Repealing and Amending Act, 1903 (1 of 1903).

[1] Second.—The proprietors of estates let in farm or held khas shall be entitled to receive an allowance of malikana, at such rate as the Board * * [2] or other authority exercising the powers of that Board may determine, anything in the existing Regulations notwithstanding: the said malikana to be apportioned in cases in which several proprietors may have heretofore held an estate under one common assessment, whether in joint tenancy or otherwise, according to the shares of each respectively:

Malikana to be allowed to proprietors of estates farmed or held khas.

Provided also that the malikana allowance granted to the proprietor or proprietors of any mahal shall not in any case be less than five *per cent.* on the net amount realized by Government from the lands; nor shall it exceed ten *per cent.* on that amount without the special sanction of the [3] [Governor General in Council]:

Provided further that, if the said proprietors shall in any case be in the receipt of any perquisite or the profits of any lands in lieu of the nankar formerly granted to them by the Native Governments or otherwise, in consideration of their proprietary tenure, the amount of such allowance shall be deducted from the malikana to which they are by this section declared to be entitled:

Provided also that this rule shall not apply to such zamindars as may continue in the occupancy of their tenures, whilst the mahal in which they are

[1] For an explanation of the rules in s. 5 as to malikana, see the Bengal Land-revenue (Settlement and Deputy Collectors) Regulation, 1833 (9 of 1833), s. 11. *post*, p. 607.

[2] The words "of Commissioners", which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[3] The words "Governor General in Council" are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. 2, in Vol. I, p. 43.

included is held khas or farmed, or of any part of them, that is to say, zamindars who may cultivate or lease their lands and pay the revenue to the farmer or Government officer; nor, without the special sanction of Government, to any malguzar, zamindar or other proprietor or holder of land who may directly or indirectly continue to draw any allowance from the raiyats of the lands farmed or held khas:

Provided also that malguzars, not being actual proprietors of the land included in the estate for which they may have formerly been under engagements, though recorded in the accounts of past settlements as zamindars, talukdars or the like, or being proprietors of a part only of such land, shall not receive the above allowance on the jama of the estate, but shall receive such allowance in lieu of their title of management as it may appear to Government to be equitable to assign, in addition to the malikana to which they may be entitled on account of any lands held by them in actual property, and of which they may not retain the occupancy: and no malikana shall be granted to any sadar malguzar on account of lands the occupants of which may deny his right of property, until he shall have established his right by a regular suit in a Court of Justice, or to the satisfaction of the Board. But in such cases such provision will be made for the intermediate support of the party as the [1] [Governor General in Council] may, on the recommendation of the Board, see fit to direct:

Zamindars may be called upon to state jama for which they are willing to engage.

Third.—Provided also that, if any zamindar or sadar malguzar shall have been called upon by a Collector or other officer exercising the powers of a Collector to state the highest amount of jama for the payment of which he may be willing to engage, and shall have stated the same accordingly, the sum so stated by such zamindar or sadar malguzar, and not the jama ultimately realized by Government, shall form the basis on which his malikana allowance shall be adjusted; and in such case it shall and may be lawful for the Revenue-authorities to limit the said allowance to five *per cent.* on the said sum, or to a portion thereof, according to the extent of the proprietary interest possessed by the said zamindar or sadar malguzar:

Provided also that, if a zamindar or sadar malguzar, when so called upon shall fail to specify or tender any sum as aforesaid, then and in that case

[1] The words "Governor General in Council" are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. 2, in Vol. I, p. 43.

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the net revenue derived by Government from the mahal, on account of the year preceding that in which the Collector or other officer aforesaid may make the said requisition, shall be taken as the sum by which the amount of malikana (not being less than five, nor more than ten, *per cent.* on the same) shall be adjusted.

6. *First.*—In cases wherein the existing engagements may be continued under the rule contained in section 2 of this Regulation, it shall and may be lawful for the Collectors, with the sanction of the Board, * * * [1] to enter at any time in the course thereof on a revision of the settlement notwithstanding such continuance of the existing leases, and to adopt such measures as may be requisite for ascertaining and determining the extent and produce of the lands, and the amount of jama properly demandable therefrom, and for procuring and recording the fullest possible information in regard to the rights, interests, privileges and properties of the agricultural community, and to determine the same, with the same powers and authority as they now are or may hereafter be entitled to exercise in forming the settlement of estates open to re-assessment.

Revenue-officers may revise settlements of estates of which existing leases shall be extended under section 3, during continuance of such extended lease.

Second.—The said revision of the settlement shall be made village by village and mahal by mahal; and such number of mahals shall be revised in each year, as the Board, under the orders of the [2] [Governor General in Council], may direct.

Revision of settlement how made.

Third.—Such revision of the settlement shall not operate to disturb the existing engagements during the period for which they may be continued under the provisions of section 2 of this Regulation in so far as such engagements relate to the amount of jama demandable by Government; but the said engagements shall be held and considered to include only such villages and lands as may be specified in the proceedings or accounts of the settlement last concluded; and, if on the revision of the settlement of any mahal it shall be found that there has been any material error or concealment of lands belonging to such mahal, the Collector shall be authorized, subject to the orders of the Board, separately to assess the lands so withheld from the knowledge of the Revenue-authorities, in the same manner and with the same powers as he would assess an unsettled mahal:

Revision of settlement not to operate to alter jama payable on account of lands included in existing engagements.

[1] The words "of Commissioners", in s. 6 (1), which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[2] The words "Governor General in Council" are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. 2, in Vol. I, p. 43.

Provided also that nothing in this or the preceding sections shall be construed to prevent the Revenue-officers from passing and enforcing such orders in regard to the rights and interests to be enjoyed by the different classes of persons connected with any mahal, during the period for which the existing settlement has been extended, as they may or shall be authorized to pass or enforce when adjusting the assessment of an unsettled mahal.

[Fourth.—Revision of settlement in Conquered Provinces and Bundelkhand.] Rep. by the Repealing and Amending Act, 1903 (1 of 1903).

Leases to be granted on revision of settlement in Ceded Provinces, Cuttack, Patespur, etc.

7. First.—When a Collector * * [1] in the Province of Cuttack shall have completed the revision of the settlement of any mahals under the rules contained in the preceding section, it shall and may be lawful for him subject to the orders of the Board, * * [2] and of Government, to grant to the proprietors, if willing to engage on adequate terms, renewed leases for such further term of years subsequent to the year 1234, [3] Fasli or "Amali" as the [4] [Governor General in Council] may direct.

Jama for years subsequent to 1234, how adjusted.

Second.—The assessment to be demanded on account of the years subsequent to the year 1234 Fasli [5] to which leases renewed as above may extend, shall be fixed with reference to the produce and capabilities of the land as ascertained at the time when the revision of the settlement shall be made [5] unless under special circumstances justifying a prospective enhancement of the Government demand :

Provided also that the amount of such assessment shall not be raised above that of the present jama, unless it shall clearly appear that the net profits to be derived from the land by the zamindars and others who may be entitled to share in the profits arising out of the limitation of the Government demand will exceed one-fifth of that amount ; and, in cases wherein any increase may be demanded, the assessment shall be so regulated as to leave the zamindars and others aforesaid a net profit of twenty per cent. on the amount of the jama payable by or through them respectively : no abatement on the existing jama will be allowed unless on the clearest grounds of necessity.

[1] The words "in the Ceded Provinces or", which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

[2] The words "of Commissioners", which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[3] i.e., A. D. 1826.

[4] The words "Governor General in Council" are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. 2, in Vol. I, p. 43.

[5] As to the partial repeal of this provision by the Bengal Land-revenue (Settlement and Deputy Collectors) Regulation, 1883 (9 of 1883), s. 2, see footnote on p. 540, *infra*.

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Third.—The pattas granted on such revised settlements shall be held only to secure the malguzars from further demand during the term of their respective leases, on account of the lands specified in it, or described in the settlement rubakati of the Collector with such allowance for error as may be distinctly declared at the time of settlement.

Pattas granted on revised settlement to cover only lands specified.

Zamindars and other persons entering into engagements will be required therefore to afford the fullest and most correct information in regard to the raqba of the mahals for which they may engage.

Fourth.—[Grant of renewed leases in Conquered Provinces and Bundelkhand.] Rep. by the Repealing and Amending Act, 1903 (1 of 1903).

Fifth.—If any zamindar or other sadar malguzar, the settlement of whose estate may be revised under the above rules, shall refuse to enter into suitable engagements for a further period beyond the term of the then current lease, or if after such revision the Revenue-authorities shall under any other circumstances deem it expedient to postpone taking further engagements for the payment of the revenue of any mahals until the expiration of the current leases, it shall be competent to them to do so; and in such case the several rules contained in section 3 of this Regulation, relative to estates of which the settlement will expire with the present year, shall on the expiration of the said leases be and be held applicable to such mahals.

Power to postpone final settlement until expiration of current leases.

Sixth.—The same rules shall also be applicable to the several mahals with-
in * * * [1] the pargana Pataspur and its dependencies, as they may respectively become, or be declared, open for re-settlement.

Rules applied to estates in Gorakhpur, etc.

8. Where the waste-land belonging to or adjoining any mahal is very extensive, so as considerably to exceed the quantity required for pasturage, or otherwise usefully appropriated, it shall be competent to the Revenue-officers to grant leases for the same to any persons who may be willing to undertake the cultivation in perpetuity, or for such periods as the [2] [Governor General in Council] shall determine; and to assign to the zamindars or others who may establish a right of property in the lands so granted an allowance equivalent to ten per cent. on the amount payable to Government by the lessees, in lieu and bar of all claims to or in the waste-lands, so granted, or such other perquisites or privileges as by the custom of the country they may appear in such cases entitled to receive.

Letting of excess waste-lands.

Allowance to zamindars.

[1] The words "the district of Gorakhpur, the shakla Azamgarh", which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

[2] The words "Governor General in Council" are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. 2, in Vol. I, p. 43.

Investigations by Collectors making or revising settlements.

[1] 9. *First*.—It shall be the duty of Collectors and other officers exercising the powers of Collectors, on the occasion of making or revising settlements of the land-revenue, to unite, with the adjustment of the assessment and the investigation of the extent and produce of the lands, the object of ascertaining and recording the fullest possible information in regard to landed tenures, the rights, interests and privileges of the various classes of the agricultural community.

For this purpose their proceedings shall embrace the formation of as accurate a record as possible of all local usages connected with landed tenures, as full as practicable a specification of all persons enjoying the possession and property of the soil, or vested with any heritable or transferable interest in the land or the rents of it, care being taken to distinguish the different modes of possession and property, and the real nature and extent of the interests held, more especially where several persons may hold interests in the same subject-matter of different kinds or degrees.

This record shall, in pattidari or bhaiya chara villages or the like, include an accurate register of all the co-parceners, not merely the heads of divisions, such as the pattis, thoks or behris, but also as far as possible of every person who occupies land, disposes of its produce or receives rent as proprietor or as agent for one or more proprietors holding land and disposing of its produce, or receiving the rents of it in common, with a detailed statement of the interior arrangements adopted by the brotherhood for the distribution of the profits derived from sources common to the co-parcenership where any such exist, and for determining the share of the Government jama and of the village-expenses which each parcener is to contribute, or the other modes in which the engaging parcener or intermediate pattidars and behridars collect from the cultivators.

A record shall likewise be formed of the rates per bigha of each description of land or kind of produce demandable from the resident cultivators not claiming any transferable property in the soil, whether possessing the right of hereditary occupancy or not, and the respective shares of the sadar malguzar or other manager, and the cultivator, in lands cultivated under kankut, batai or similar engagements, with a distinct specification of all cesses or extra collections made by the malguzar or village-manager, or other.

The names of all the village-patwaris and village-watchmen shall also be

[1] As to the partial repeal of s. 9 by the Bengal Land-revenue (Settlement and Deputy Collectors) Regulation, 1888 (9 of 1888), s. 8, see the footnote on p. 540, ante.

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(Sec. 9.)

registered, with a statement of the amount and nature of the allowance assigned them.

And all lakhiraj tenures shall be carefully recorded, with a specification of the nature of the tenure.

The information collected on the above points shall be so arranged and recorded as to admit of an immediate reference hereafter by the Courts of Judicature, it being understood and declared that all decisions on the demands of the zamindars shall hereafter be regulated by the rates of rent and modes of payment avowed and ascertained at the settlement, and recorded in the Collector's proceedings until distinctly altered by mutual agreement, or after full investigation in a regular suit: and all cesses or collections not avowed and sanctioned, nor taken into account in fixing the Government jama, shall be held illegal and unauthorized, unless now or hereafter specially sanctioned by Government.

Second.—Provided also that it shall be competent to Collectors and other officers as aforesaid (subject to the orders of the Board * * [1]) to grant pattas to the several mufassal zamindars and raiyats or other owners or occupants of land, for the land owned or occupied by them, specifying the amount to be paid by them, and all the conditions attaching to their tenure; and a register of all pattas so granted shall form a part of the rubakari of settlement.

Collectors, etc., may grant pattas to mufassal zamindars and raiyats.

Third.—Provided, however, that, if from the number of estates of which the leases may at once expire in any district, or from any other special cause, it shall be found necessary, for the security of the Government revenue, to take engagements from any zamindar, malguzar or farmer, without completing the detailed inquiries above directed, it shall be competent to the [2] [Board] of Revenue or other [3] authority exercising the powers of [4] [that Board] to cause engagements for the revenue to be taken in the manner heretofore in use, reporting the circumstance to the [5] [Governor General in Council], but the term of the engagements so taken shall not exceed five years, and the rules relative to the revision of the settlements of mahals of which the existing leases have been extended under the provisions of section 2 of this Regulation

Power to take engagements for revenue without completing detailed inquiry.

[1] The words "of Commissioners", which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[2] The word "Board" was substituted for the word "Boards" by the Repealing and Amending Act, 1903 (1 of 1903), Sch. 2, in Vol. I, p. 44.

[3] As to the exercise of functions of the Board of Revenue by other authorities, see the references cited in the footnote on p. 75 of Vol. I.

[4] The words "that Board" were substituted for the words "such a Board" by the Repealing and Amending Act, 1903 (1 of 1903), Sch. 2, in Vol. I, p. 44.

[5] The words "Governor General in Council" are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. 2, in Vol. I, p. 48.

shall be equally applicable to estates for which such engagements shall be taken.

Power to determine which of several holders of differing interests, having separate properties in same land, shall be admitted to engage, and to prescribe distribution of profit resulting from limitation of jama.

10. *First.*—Of several parties possessing separate heritable and transferable properties in any parcel of land or in the produce or rent thereof, such properties consisting of interests of different kinds, it shall be competent to the [1] [Governor General in Council] to determine and direct which of such parties shall be admitted to engage for the payment of the Government revenue, due provision being made for securing the rights of the remaining parties.

It is further hereby declared and enacted that it is and shall be competent to the [1] [Governor General in Council], in confirming the settlement of any mahal in perpetuity or for a term of years, to determine and prescribe the manner and proportion in which the net rent or profit arising out of the limitation of the Government demand shall be distributed among the different parties possessing an interest in the lands appertaining to such mahal or in the rent or produce of such lands or mahal.

Mufassal settlements in cases where title of intermediate manager between Government and proprietors or hereditary occupants of soil are maintained.

Second.—In cases wherein any land appertaining to a mahal hitherto recognized as the taluka, zamindari or the like, of one or more sadar malguzars, may be owned or occupied by other persons holding under the sadar malguzar and possessing an heritable and transferable property therein or an hereditary right of occupancy subject to the payment of a fixed rent, or of a rent determinable by a fixed principle, if the title of the said sadar malguzar to engage for the revenue be upheld, and generally in cases wherein the tenure of an intermediate malguzar or manager between the Government and the proprietors or hereditary occupants of the soil may be maintained, whether the Government revenue be collected from the zamindar, talukdar or other hereditary intermediate malguzar, or the mahal be farmed or held khas, it shall be competent to the Collector or other officer who may be employed in adjusting the jama to be assessed on such mahal, with the sanction of the Board previously obtained and subject to the orders and directions of that authority, to make a mufassal settlement with each of the proprietors or occupants aforesaid for the land possessed by him, and to grant such proprietors or occupants pattas defining the condition on which they are to hold their land, whether subordinate to the sadar malguzar or to the farmer or officer of Government employed in the khas management; and in all such

[1] The words "Governor General in Council" are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. 2, in Vol. I, p. 43.

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cases, if engagements for the Government revenue of the mahal be taken from the intermediate hereditary malguzar, the particulars of the mufassal settlement, when approved by the Board, shall be endorsed on the patta to be granted to the sadar malguzar, or shall be so incorporated with the engagement taken from him as to form part of the same.

Third.—In cases in which two or more persons may possess a joint property in any village, mahal or parcel of land, or in the rent or produce of any village, mahal or land, or in any part of such village, mahal, land, rent or produce, the property of such persons consisting of interests of the same kind, whether of the same extent or otherwise, as well as in cases wherein such property in any mahal, village, land, produce or rent may be separately possessed by parties subject by prescriptive usage to common obligations, whether existing or contingent, it shall be competent to the Collector or other officer exercising the powers of Collector, subject to the orders and direction of the Board and of the [1] [Governor General in Council], either to make a joint settlement with the parties collectively or a majority of them, or with an agent appointed by them or a majority of them, or to select one or more of them to undertake the management of the mahal as sadar malguzars, due advertence being had to the wishes of all the coparceners, and to the past custom of the village or villages comprised in the mahal.

Settlement where several persons hold common property subject to common obligations.

Fourth.—When it shall be determined to make a joint settlement for any village, mahal or parcel of land with the parties possessing therein a joint property as aforesaid, the Collector or other officer making the settlement shall give notice of his intention, by a written proclamation to be stuck up in some public place within the village, mahal or land, and shall require all persons possessing therein a property as aforesaid to attend, either in person or by representative duly authorized in the matter, within a reasonable period, at a stated place and time, and to declare their agreement or non-agreement to the jama proposed to be assessed on the village or land.

When joint settlement to be made, parties how summoned.

Fifth.—If any person or persons, when summoned as above, shall refuse, neglect or omit to attend, either in person or by representative, such person or persons shall be held to be bound by the decision of the majority of those who may attend, in agreeing or disagreeing to the jama, and his or their interests and estate shall, unless otherwise specially allowed, be held responsible for

Persons wilfully failing to attend when summoned, to be bound by decision of majority present.

[1] The words "Governor General in Council" are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1908 (1 of 1908), Sch. 2, in Vol. I, p. 43.

the Government revenue, and be liable to sale in the event of any arrear accruing on account of the settlement.

Treatment of
parceners not
joining in
settlement.

Sixth.—If any person or persons shall attend and shall object to the jama proposed to be assessed, then, should a settlement be made with the other parties present, the objecting parties shall be left in the enjoyment of the same rights and interests as they would enjoy in the event of the mahal being farmed or held khas; and, in so far as regards the lands to which such rights and interests attach, the other parceners, if their engagements be extended thereto, shall be considered farmers of the Government revenue to hold the same under leases of such term as may be determined and agreed upon under the general rules applicable to lands for which the proprietors may refuse to engage.

Rates of
rent of
cultivating
proprietors
of lands of
which revenue
collected khas
or farmed.

Seventh.—When any mahal or portion of a mahal, held by a number of cultivating proprietors in pattidari or bhaiya chara tenure or the like, shall be let in farm or held khas, the rent demandable from the proprietors of such mahal or portion of mahal, on account of the land occupied and cultivated by themselves, shall be adjusted by the rates payable by raiyats or other resident cultivators not having an heritable and transferable property in the soil, for lands of a similar description in the same or in the adjoining villages, with a deduction of five *per cent.*, on account of malikana, or such other rate, not being less than five *per cent.*, as Government may determine.

Liability for
default of
non-engaging
parceners
when settle-
ment of mahal
made with one
or more of
them as sadar
malguzar.

Eighth.—When it shall be determined to make a settlement of a mahal of the above description with one or more of the parceners selected to manage, collect and account for the public revenue as sadar malguzar, then and in that case the interests of the non-engaging parceners shall not be held answerable for the default of the sadar malguzars, save and except in so far as may be specifically provided.

Such parceners shall, until regularly separated, continue to hold their lands as subordinate proprietors, subject to the payment of rent or revenue to the sadar malguzar at the rates and in the mode heretofore in use, excepting in so far as that usage may be affected by the determination of Government in regard to the distribution of the net rent or profit derived from the limitation of the Government demand, or by the rules now in force or hereafter to be enacted, for vesting the sadar malguzars with specific powers over the subordinate tenants in the collection of the rent or revenue demandable from them.

of 1822.]

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(Sec. 11.)

The responsibility attaching to the persons selected as sadar malguzars and the conditions under which they are to hold that title of management will in each case be specifically declared at or after the time when the settlement is confirmed.

The conditions and limitations under which the subordinate proprietors shall be admitted to separate engagements will also be similarly declared.

Ninth.—Provided further that, in all cases wherein different parcels of land belonging to any mahal may be separately owned and occupied by different proprietors or by different bodies of proprietors, it shall be competent to the [1] [Board] of Revenue or other [2] authority exercising the powers of that Board to cause a separate settlement to be made for the land owned and occupied by each proprietor or by each body of proprietors, and each parcel of land for which a separate settlement may be so made shall be held exclusively responsible for the revenue assessed upon it :

Parcels separately owned and occupied may be separately settled.

Provided also that, if the several parties possessing a joint property or separate properties subject to a common obligation as aforesaid, or any of them, shall apply to a Collector or other officer making or revising a settlement to have separate possession of their several share or shares in such joint property, or to be admitted to separate engagements, it shall be competent to such Collector or other officer, with the sanction of the Board or other authority to which he may be subordinate, to make a partition of the property among the different parties according to their respective interests, and to make a separate settlement with each of them or with such as may desire to enter into separate engagements.

Power to partition and to settle separately with each proprietor.

Tenth.—In all cases wherein any proprietors may be excluded from engagements the Collector [3] shall be careful to let it be known that all persons possessing a property in the mahal are entitled to have their names recorded in the rubakari of settlement, with the amount or rate of the assessment demandable from each.

Proprietors excluded from engagements may have their names registered.

11. *First.*—The Collector's [3] proceedings in forming the registry above directed shall be founded on the basis of actual possession, and that officer shall, in every instance, be careful to record the precise nature of the authority on which the entries in his books may be made.

Collectors forming such registry to proceed on basis of actual possession.

[1] The word "Board" in s. 10 (9) was substituted for the word "Boards" by the Repealing and Amending Act, 1903 (1 of 1903).

[2] As to the exercise of functions of the Board of Revenue by other authorities, see the references cited in the footnote on p. 75 of Vol. I.

[3] As to the exercise of functions of Collectors by other officers, see p. 35, *post*, p. 573.

In conformity with the above principle it shall be competent to the Collectors or other officers when making or revising settlements, or otherwise deputed to investigate and determine the circumstances of any mahal, and the nature of the tenures connected with it, to correct the errors or omissions of former settlements by admitting to engagements or entering on the public records the names of the persons found in the *bond fide* possession of land or in the receipt of rent under a proprietary title; and in such cases the Collector [1] will hold an official proceeding, explaining fully the grounds on which he may act.

In estates held under pattidari, bhaiya chara or like tenure, Collectors may re-allot revenue and charges payable by several par-ceners;

[2] 12. *First*.—In cases in which the proportion of the Government jama and village-expenses payable by each proprietor and by each body of proprietors comprised in the several pattis, behris and other divisions of an estate held under pattidari or bhaiya chara tenure or the like may have been originally fixed on a measurement of the lands occupied by each, with reference to the quantity in cultivation, and may be liable by the usage of the country to periodical adjustment on the same principle, if the Collector or other officer making or revising the settlement shall be satisfied, by examination of the patwaris' accounts or otherwise, that the contributions paid by any proprietor, or body of proprietors as aforesaid are materially in excess of the amount justly demandable from them, it shall be competent to him, with the previous sanction of the Board, to cause a new distribution to be made of the revenue and charges payable by each, with reference to the above principle, and to such resolutions as Government may have passed relative to the apportionment of the net rent or profits arising out of the limitation of the Government demand, and in the performance of this duty to employ the kanungo, and such person or persons as he may judge it advisable to appoint, and to settle the jama payable by the different parties according to the award of such person or persons, or otherwise as shall appear to be just and equitable.

and in certain cases may make fresh partition of land.

Second.—In like manner, in cases in which the several proprietors shall be entitled not only to an adjustment from time to time of the jama payable on account of the lands occupied by them, but likewise to a periodical partition of the lands of the village, with reference to the share recorded as belonging to each, it shall be competent to the Collector [1] to cause a fresh partition of the lands and adjustment of the jama to be made as above prescribed, and at the same time to fix and declare the period from which the arrangement as

[1] As to the exercise of functions of Collectors by other officers, see s. 35, *post*, p. 573.

[2] As to the partial repeal of s. 12 by the Bengal Land-revenue (Settlement and Deputy Collectors) Regulation, 1883 (9 of 1883), s. 2, see the footnote on p. 540, *ante*.

of 1822.]

SETTLEMENT REGULATION, 1822.

(Secs. 13, 14.)

finally settled is to have effect, and to adjust the claims of the parties relative to the revenue intermediately paid by them, as may appear equitable :

Provided, however, that no such partition or adjustment shall be final until confirmed by the Board * • [1] or other [2] authority exercising the powers of that Board :

Provided also that, if any parties shall dispute the existence of the usage under which the partition of the lands shall have been made, and shall claim to be restored to possession of the lands which the Collector [3] may have transferred to another, or shall consider himself entitled to the benefit of a new partition of the lands comprised in the mahal to which he may belong, in any case in which the Collector [3] may have refused to order it, it shall be competent to the said party to bring a regular suit in the Zila Court against the person or persons to whom the lands may have been transferred, or the person or persons who may resist the partition, to try the justness of the Collector's [3] decision; but, if the existence of the usage shall be admitted or established, it shall not be competent to the Courts of Judicature to question the accuracy of the partition of the land or adjustment of the jama ;

Cases in which parties affected by Collector's decision may contest it in Court.

On what points revenue-officer's decision conclusive.

and, whenever the decision of a Collector [3] for the partition of any land shall be set aside, it will of course belong to the revenue authorities to re-adjust the jama with reference to the interests of the parties as defined and settled by the final decision of the Courts of Judicature, and to the conditions of the tenure, and to any general or special resolution of Government relative to the distribution of the net rent or profit arising out of the limitation of the public assessment.

13. Collectors and other officers exercising the powers of Collectors shall not, unless where specially authorized in the manner prescribed in this or some other [4] [law], do any act tending to disturb possession, but shall leave the Adalat to investigate in a regular suit all claims of persons not in possession but deeming themselves entitled to be so.

Collectors not to disturb possession unless specially authorized.

[5] 14. First.—Collectors [3] making or revising settlements shall, in cases in which any dispute may exist in regard to the nature of the tenure of any

Collectors making or revising settlements

[1] The words "of Commissioners", which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[2] As to the exercise of functions of the Board by other authorities, see the references cited in the footnote on p. 75 of Vol. I.

[3] As to the exercise of functions of Collectors by other officers, see s. 35, et, p. 573.

[4] The word "law", in s. 13, was substituted for the word "Regulation" by the Repealing and Amending Act, 1903 (1 of 1903), Sch. 2, printed in Vol. I, p. 44.

[5] As to the partial repeal of s. 14 by the Bengal Land-revenue (Settlement and Deputy Collectors) Regulation, 1833 (9 of 1833), s. 3, see the footnote on p. 540, ante.

may declare
nature and
extent of
interests of
persons occu-
pying land.

person occupying the soil, be competent to declare in an official proceeding, to be incorporated in the rubakari of settlement, the nature and extent of the interests actually possessed by such occupant, referring to the denomination heretofore applied to him only as one means of proof in regard to the nature of the interest, but stating at length, with specification of any examination he may take for his satisfaction, the grounds of his determination ;

so also in cases of dispute regarding the extent of the interest belonging to any sharer in a village or villages held under pattidari, bhaiya chara or the like tenure, such sharer having actual possession of a portion of such village or villages, or being in the actual receipt as proprietor of a share of the joint profits of the land, it shall be competent to the Collector [1] to decide the point in the first instance in his rubakari of settlement, and to enforce his decision, leaving the party who may deem himself aggrieved to seek redress by a regular suit in the Courts to try the right ;

but nothing herein contained shall be construed to authorize the Courts to interfere with the decision of the Collector [1] in regard to the amount or proportion of jama to be assessed on any parcel of land, or in respect to the quantity and description of land, to be assigned in partition to the holder of any specific share of a joint estate.

Cognizance
of claims to
larger profits,
or larger share
of village,
than hitherto,

Second.—The above rule shall not be construed to empower Collectors, [1] unless otherwise authorized, to take cognizance of any claim to receive a larger portion of the common profits than the claimant has hitherto enjoyed, or to hold a larger portion of the village or villages than he has hitherto occupied.

Maintenance
by Courts of
decisions of
Revenue-
officers.

Third.—The decisions passed by the Collectors [1] under the above powers, if not altered or annulled by the Board [2] or by Government, shall be maintained by the Courts, unless on investigation in a regular suit it shall appear that the possession held under such a decision is wrongful ; and nothing herein contained shall be understood to authorize any Court to interfere with the decision of the Revenue-authorities relative to the jama to be assessed on any mahal or portion of a mahal, or to the extent and description of lands belonging to any mahal that may be assigned on the partition of the same to the several parceners concerned.

Bar to inter-
ference by
Courts,

Cognizance
by Collectors
of complaints

Fourth.—If any person shall complain to a Collector [1] or other officer making or revising the settlement of any mahal that he has been wrongfully

[1] As to the exercise of functions of Collectors by other officers, see s. 35, *post*, p. 578.

[2] As to the exercise of functions of the Board of Revenue by other authorities, see the references cited in the footnote on p. 75 of Vol. I.

of 1822.]

SETTLEMENT REGULATION, 1822.

(Sec. 15.)

dispossessed from any lands, premises, crops, orchards, pasture-grounds, fisheries, wells, water-courses, tanks, reservoirs or the like, within such mahal, or of the rents, produce or profits of such lands, premises, etc., the like as aforesaid, or that he has been wrongfully disturbed in the possession thereof, it shall be competent to the Collector or other officer aforesaid to inquire into the matter, and, if the party so complaining shall appear to have been in possession in the year preceding that in which the complaint is brought, and there shall otherwise be reason to believe that he has been violently or wrongfully dispossessed or disturbed, it shall be competent to the Collector to restore or confirm him, recording the grounds of his determination in a rubakari; and the opposite party shall in such case be left to bring a regular suit in Court to try the question of right.

of wrongful
dispossession.

In like manner, should a Collector or other officer as aforesaid find that there exist in any mahal of which he may be making or revising the settlement any disputes, relative to the possession of lands, premises or the like which it may be expedient to adjust, it shall be competent to the Collector or other officer aforesaid to pass a decision determining the point of possession, leaving the question of right, if further disputed, to be settled by the result of a regular suit in the Adalat.

Adjustment
of disputes
as to posses-
sion.

Fifth.—The above provisions will be held to apply to all cases in which a zamindar or under-tenant, whether farmer or raiyat, having by special deed or prescriptive title a right of occupancy, shall have been wrongfully ousted from the occupancy of lands held and cultivated by him in the preceding year, or in which the rents and profits of any land which were received by such dispossessed party in the preceding year shall be withheld from him without a legal award, or a voluntary act of the party involving the transfer, renunciation or relinquishment of such rents and profits.

Cases to which
foregoing
provisions
apply.

But the above rule shall not apply to any case in which the complaining party may have executed any deed purporting to be a relinquishment of possession, unless it shall have been established by some judicial proceeding that such deed was extorted by force and terror, nor to any cases wherein the complainant shall have in any way lost or relinquished possession previously to the commencement of the year preceding that in which the complaint may be preferred.

15. In the settlement of any resumed mahal held or pretended to be held under sanads from the ruling power, or from the amils or other officers of the Government, whether such lands shall have been heretofore subject to the

In settling
resumed
mahals
Collectors
may take

cognizance of
claims to
property
therein ;

and may give
possession to
parties
appearing to
have best
title.

Limitation of
rule.

Power to
grant to
Collectors
making or
revising
settlements
special author-
ity to take
cognizance of
claims to
property and
possession of
land.

payment of revenue or otherwise, it shall be competent to the Collector or other officer making the settlement to hear, try and determine all claims to the property and possession of the land comprising such mahal, or the rents or produce thereof, anything in the existing Regulations notwithstanding, and subject to the orders and direction of the Board of Revenue or other [1] authority exercising the powers of that Board to give possession to, and conclude a settlement with, the party who may appear to have the best title, leaving other claimants to establish their claims by a regular suit in the Zila * * [2] Court, by which * * * [3] all decisions passed by the Revenue-authorities under this section may, on such suit being fully heard, sued and determined, and not otherwise, be revised, annulled or altered.

The above rule shall not extend to lands held free of assessment under grants made by or at the request of the proprietors themselves or their representatives, the settlement of which shall ordinarily be made with the parties in possession, if willing to engage on adequate terms.

16. It shall be competent to the [4] [Governor General in Council] to grant to a Collector [5] making or revising the settlement of any mahal, whether the same may have been held by a lakhiraj tenure resumed, or being malguzari may have become open to re-settlement in ordinary course, special authority to hear, try and determine as above all claims to the property and possession of the lands lying within such mahal or the rent or produce thereof, and to give possession to the party who may appear to have the best title, subject to the orders and direction of the Board, and further subject, as above, to the revision of the Zila * * [2] Court on a regular suit :

Provided also that, whenever special authority may be given to any Collector [5] as aforesaid, notice of the order of Government shall be published by a proclamation within the mahals to which the authority so given may extend ; and it shall be the duty of the Collectors [5] and the [6] [Board] to see that such proclamation is duly made.

[1] As to the exercise of functions of the Board of Revenue by other authorities, see the references cited in the footnote on p. 75 of Vol. I.

[2] The words "or Provincial", which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[3] The words "according to the value of the interest at stake", which were repealed by the same Act, are omitted.

[4] The words "Governor General in Council", in section 16, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1908 (1 of 1908), Sch. 2, in Vol. I, p. 43.

[5] As to the exercise of functions of Collectors by other officers, see s. 35, post, p. 573.

[6] The word "Board" in s. 16, was substituted for the word "Boards" by the Repealing and Amending Act, 1908 (1 of 1908), Sch. 2, in Vol I, p. 44.

of 1822.]

SETTLEMENT REGULATION, 1822.

(Secs. 17, 18.)

But no decision passed by a Collector under this or any other section whereby such notification is required shall be disturbed by any Court of Judicature, otherwise than after a full and regular investigation of merits, on the plea that proclamation was not made.

17. It shall be competent to Collectors [1] and other officers engaged in making or revising the settlement of any pargana, mauza or other local division, on the application of persons claiming a right of property in lands held free of assessment, or at a mukarrari jama, under unquestioned grants from the ruling power, or from the amils or other officers of Government, and situate within or adjoining to such pargana, mauza or other local division, to receive, try and determine the claim; and, if satisfied that the applicants do possess or are entitled to possess an hereditary and transferable property in the land or the produce or rent thereof, the Collector or other officer, with the sanction of Government previously obtained, shall be authorized to conclude a settlement with them on behalf of the lakhirajdar or mukarraridar, for such period as the [2] [Governor General in Council] may direct, and shall grant to each of the said proprietors pattas defining the conditions on which they are to hold their lands subordinate to the lakhirajdar or mukarraridar.

Power to take cognizance of claims to property in lands held lakhiraj, or at a mukarrari jama, under valid tenures and to settle with proprietors on behalf of lakhirajdar or mukarraridar.

It shall further be competent to the Collector under the orders of the Board * * [8] to fix and declare the amount of malikana or other proprietary allowance to be paid by such lakhirajdars or mukarraridars to the said proprietors, in the event of their being divested of the occupancy and management of their lands:

Provided, however, that either party who may be dissatisfied with the decision of the Collector as to the question of the right of property shall be at liberty to contest the same in a regular suit in the Adalat; but the Court shall not interfere to alter the terms on which the settlement may have been made by the Collector with proprietors, or the amount of malikana granted to such persons.

18. The Collector shall in cases of doubt be the judge of the question of jurisdiction, subject to the orders of the Board and of Government; and the Courts of Judicature shall not disturb possession given by the Collector except on a regular suit, and on a decision as to the right

Collectors to be judges of question of jurisdiction.

[1] As to the exercise of functions of Collectors by other officers, see s. 85, *post*, p. 578.

[2] The words "Governor General in Council", in section 17 are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), sch. 2, in Vol. I, p. 48.

[8] The words "of Commissioners", which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

LAND-REVENUE,
THE BENGAL LAND-REVENUE
(Sec. 19.)

[Reg. 7]

Collectors
authorized to
summon
witnesses and
require
production of
accounts.

19. First.—It shall be competent to Collectors, [1] when prosecuting the above inquiries or hearing and trying the above suits, or otherwise when authorized in that behalf by the Board to which they may be subordinate, to require all sadar malguzars and other persons owning, occupying, managing or cultivating any lands within or in the vicinity of the mahal to which their inquiries may extend, or gathering or disposing of the produce thereof, or collecting, enjoying or appropriating any rent or revenue derived therefrom, as well as the gumashtas or other agents employed by such persons in the management or cultivation of the land, or in the collection of the rent, produce or revenue thereof, to attend and produce all accounts or other papers which they may respectively possess relative to such lands, produce, rent or revenue, and to examine the said persons on oath [2] or halfnama to the truth of the accounts produced, or any other matter relating to such accounts, or regarding the lands, produce, rent or revenue of the mahal or the rights and interests attaching to such lands, produce, rent or revenue: [3]

Provided, however, that no person shall be compelled to answer on oath or solemn declaration any interrogation regarding matters wherein he may have an immediate personal interest in concealing the truth, or in uttering what is false, not being an interest arising out of fear, favour or reward, or any corrupt bargain or agreement with another party.

Rules of Re-
gulation 2,
1819, applied
to process
issued by Col-
lectors;

Second.—The rules contained in section 11, Regulation 2, 1819, [4] relative to the mode of serving process on persons who may be required to attend and produce accounts under the provisions of that Regulation, shall be and be held applicable to processes issued by Collectors or other officers under the rules contained in this Regulation.

also to pat-
waris and
others sum-
moned or ex-
amined.

In like manner the provisions of section 12 of the said Regulation shall be applicable to all patwaris, gumashtas or other persons by whom the accounts of any lands, regarding which the said inquiries may have been instituted, may be kept, and who, after being duly summoned as aforesaid, may neglect or omit to produce any of the accounts required from them, or to give their evidence regarding them, or who may deliberately give a false deposition on oath or solemn declaration, when summoned and examined as aforesaid, or

[1] As to the exercise of functions of Collectors by other officers, see s. 85, *post*, p. 573.

[2] As to oaths, see the Indian Oaths Act, 1878 (10 of 1878), in General Acts, 1868-76, Ed. 1898, p. 411.

[3] As to penalty on landholders for not attending when summoned by the Collector, see the Bengal Landholders' Attendance Act, 1848 (20 of 1848), *post*, p. 610.

[4] The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. S. 11 of the Regulation is printed *ante*, p. 524.

of 1822.]

SETTLEMENT REGULATION, 1822.

(Sec. 20.)

who may alter, fabricate, falsify or mutilate the accounts which they may be required to produce :

Provided further that Collectors and other officers employed in the settlement of the land-revenue, or in any of the inquiries specified in this Regulation, shall be vested with all the powers and authority which are or may be lawfully exercised by Collectors in cases depending before them under Regulation 2, 1819 [1]; and the rules contained in clause third, sections [2] 13, 14 and 19 of the said Regulation, shall be and be held applicable to all persons who may be summoned by any Collector or other officer aforesaid, or who may resist the process of a Collector issued under the rules of this Regulation, or who may refuse to take an oath [3] or subscribe a solemn declaration when required, or who may deliberately give a false deposition or oath or under a solemn declaration taken instead of an oath, or may cause or procure another to do so.

Powers of Collectors.

Rules applied to other persons upon whom process may be issued.

[4] 20. *First*.—The powers specified in sections 11, 12, 14, 16, 17, 18 and 19 of this Regulation shall be ordinarily exercised by Collectors [5] when employed in making or revising settlements of the land-revenue, and shall extend to all the lands comprised in the pargana in which he may be so employed; but it shall be competent to [6] [the Government, by an Order in Council] to be publicly proclaimed in the district, to restrict the authority of Collectors and other officers making settlements in such manner and to such extent as [7] [he] may from time to time judge expedient.

Powers ordinarily vested in Collectors making or revising settlements.

In like manner it shall be competent to [8] [Government] to vest such Collectors [5] as may from time to time be judged fit with a special authority

[1] The Bengal Land-revenue Assessment (Resumed lands) Regulation, 1819. It is printed *ante*, p. 518.

[2] *Sic* in original.

[3] As to oaths, see the Indian Oaths Act, 1873 (10 of 1873), in General Acts, 1868-76, Ed. 1898, p. 411.

[4] As to the partial repeal of s. 20 by the Bengal Land-revenue (Settlement and Deputy Collectors) Regulation, 1833 (9 of 1833), s. 3, see the footnote on p. 540, *ante*.

So much of s. 20 and the following sections as applies to suits for rent, to complaints of excessive demand or undue exaction of rent, or of the non-delivery of pottas or receipts, to suits against agents for money or accounts, or to any other suits or complaints arising out of disputes between landholders or farmers and their under-tenants respecting the rent and occupancy of land, has been repealed by the Bengal Rent Act, 1859 (10 of 1859), wherever that Act extended. The matter printed in italics in this section seems to be obsolete in consequence of that repeal.

[5] As to the exercise of functions of Collectors by other officers, see s. 35, *post*, p. 573.

[6] The words "the Government, by an Order in Council" in section 20 (1) are to be read as if the words "the Local Government, by notification in the local official Gazette" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. 2, in Vol. I, p. 44.

[7] The word "he" in s. 20 (1) is to be read as if the word "it" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. 2, in Vol. I, p. 44.

[8] The word "Government" in s. 20 (1) is to be read as if the words "the Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. 2, in Vol. I, p. 44.

to receive, try and determine in the first instance, subject to a regular suit in the Adalat as above provided, all or any of the questions of the nature specified in the aforesaid sections, though the said Collectors [1] may not be engaged in making or revising a settlement of the land-revenue,

and to vest in such of the Collectors [1] as may be thought proper authority (either generally or within such limits as may be from time to time determined) to receive, try and determine by summary process all suits for rent which may be preferred by zamindars, talukdars or other sadar malguzars or farmers of land, or by any person in their behalf, against any dependent talukdar, zamindar, under-renter, raiyat or other under-tenant of whatever denomination, as well as all applications by raiyats and the under-tenants contesting the demand of a sadar malguzar or farmer ;

and all complaints preferred by raiyats or other under-tenants of whatever description, against landholders or farmers of land, or their respective agents or representatives, on account of excessive demand or undue exaction of rent, whether levied by distraint or otherwise, as well as all suits relative to the adjustment of accounts between landholders and farmers of land or under-tenants of whatever description, with their sureties, or with any agents or persons employed by them in the management of land, or the collection or payment of the rent of land, and to all other matters immediately connected with the demand, receipt or payment of the rent of land, whether malguzari or lakhiraj, or with the rent of orchards, pasture-grounds and fisheries, commonly denominated phalkar, bankar and jalkar, or with any other asset of the land-revenue not included in the sair abolished, together with all complaints of the non-delivery of pattas when demandable under the Regulations, or complaints of the prescribed receipts not being given for actual payment of rent, and generally complaints of any deviation from the Regulations, or from the established usage of the country, relative to the matters aforesaid, or any violation of subsisting engagements in disputes respecting the rent and occupancy of land between landholders or farmers of land and their under-tenants of whatever denomination.

Appointment
of Collector
to discharge
above duties,
how notified.

Second.—The appointment of the Collector [1] to the discharge of the above duties, and the extent of the jurisdiction to be assigned to him, shall be notified by proclamation in the district, after such manner as the [2] [Governor General in Council] may direct ;

[1] As to the exercise of functions of Collectors by other officers, see s. 35, *post*, p. 573.

[2] The words " Governor General in Council " are to be read as if the words " Local Government " were substituted therefor—see the Repealing and Amending Act, 1908 (1 of 1908) Sch. 2, in Vol. I, p. 44.

of 1822.]

SETTLEMENT REGULATION, 1892.

(Sec. 21.)

and, after the publication of notice, all summary suits, actions, applications and complaints of the above nature, and referring to lands or the rents, produce or accessions of land lying within the jurisdiction assigned to the Collector as above, which may be preferred in the Zila * * [1] Adalat by any sadar malguzar, samindar, talukdar, farmer, raiyat or other proprietor or under-tenant of land, shall immediately, on being received, be referred for trial to the Collector to whom also all such summary suits depending at the time shall be transferred :

Provided also that in such cases parties having suits or complaints to prefer, of which the cognizance may be vested as above in the Collector, shall be at liberty to prefer them to that officer in the first instance.

It shall in like manner be competent to the [2] [Governor General] to fix [3] [by an Order in Council] the period at which the special powers given as above to a Collector, and the authority to be ordinarily exercised by those officers on the occasion of making settlements, shall cease and determine.

Third.—No complaint or application of the nature specified in the preceding clauses shall be received by a Collector under the rules of this Regulation, unless the plaint or application shall have been preferred within the period of one year after the cause of action shall have arisen.

Limitation of time for preferring complaints specified.

[4] 21. In summary suits for rents and the like, wherein special rules have been prescribed for regulating the process of the Courts, the Collectors [5] shall be guided by the same rules, and shall exercise the same powers and authority, as are or may be lawfully exercised by the Zila and City Judges.

Rules for guidance of Collectors ; their powers.

In other cases falling under their cognizance according to the provisions of this Regulation, the ordinary process for securing the attendance of the defendant or party otherwise impleaded shall be to issue a notice reciting the matter, and requiring the defendant or other party to attend in person, or by representative, at such time and place as may be made choice of by the Collector [5] for conducting the investigation ;

should any party fail to attend after being served with a notice of the

[1] The words " or City ", in s. 20 (2), which were repealed by the Repealing Act, 1874 (16 of 1874) are omitted.

[2] The words " Governor General " in s. 20 (4) are to be read as if the words " Local Government " were substituted therefor—see the Repealing and Amending Act, 1908 (1 of 1908), Sch. 2, in Vol. I, p. 44.

[3] The words " by an Order in Council ", in s. 20 (3), are to be read as if the words " by notification in the local official Gazette " were substituted therefor—see the Repealing and Amending Act, 1908 (1 of 1908), Sch. 2, in Vol. I, p. 44.

[4] The matter printed in italics in this section seems to be obsolete in consequence of the repeal made by the Bengal Rent Act, 1859 (10 of 1859) which is mentioned in footnote [4] on p. 568, ante.

[5] As to the exercise of functions of Collectors by other officers, see s. 35, post, p. 575.

LAND-REVENUE.
THE BENGAL LAND-REVENUE
(Sec. 23.)

[Reg. 7]

above description, or should the return of the nazir or person employed to serve the notice be, that after diligent search the party or parties cannot be found, proclamation shall be made in writing, to be stuck up at or near the ordinary residence of the party, stating that, after fifteen days from the date of publishing the same, the case will be liable to be brought up for trial and judgment; and any party implicated, who, having been served with the notice above described, shall fail to attend or who shall continue to absent himself, will be as much bound by the judgment that may be passed as if he or they had been in attendance to plead.

22. [*Extension of ss. 18 and 19 of Reg. 8 of 1819.*] *Rep. by the Bengal Rent Act, 1859 (10 of 1859).*

Collector's
cutcherry
held a Civil
Court.

[1] 23. *First.*—It is hereby declared and enacted that, in so far as concerns the summoning and examination of witnesses, the penalties for false testimony, for resistance of process, contempts and all other similar matters connected with cases under cognizance before the Collectors [2] of land-revenue, or other officer, by virtue of the powers vested in them by this Regulation or any [3] [other law] whereby Collectors [2] are vested with judicial powers, their cutcherry or office for the time being shall be deemed and held to be a Court of Civil Judicature.

Suits to
contest
Collector's
decisions held
to be appeals
from summary
awards.

Second.—Provided also that the regular suits which may be brought to contest decisions passed by Collectors [2] under the powers vested in them by sections 11, 12, 14, 15, 16, 17, 18, 19 and 20 shall be of the nature of an appeal to Court in its regular jurisdiction from a summary award. It shall not therefore be necessary for the Collector or other officer of Government to be a party in the action.

Collectors
authorized
to execute
their awards.

Third.—Collectors [2] of the land revenue are hereby empowered to execute all awards made by them under the rules of this Regulation, in cases wherein a specific sum of money shall be adjudged to be due, or any costs or damages be awarded; the Collector [2] decreeing the same shall proceed to levy the amount for the party in whose favour it may be adjudged by the process [4] in use for the recovery of arrears of the Government revenue:

[1] S. 23 (1) has been applied—

by the Bengal Land-revenue Settlement Regulation, 1825 (9 of 1825), s. 5 (9), (printed *post*, p. 581), to cases investigated by Collectors under that Regulation or under the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819 (2 of 1819) (printed *ante*, p. 518); and

by the Cess Act, 1880 (Ben. Act 9 of 1880), s. 92 (printed in Vol. I, p. 138), to the making of valuations of lands under Part II of that Act.

[2] As to the exercise of the functions of Collectors by other officers, *see* s. 35, *post*, p. 573.

[3] The words "other law", in s. 23 (1), were substituted for the words "other Regulation" by the Repealing and Amending Act, 1903 (1 of 1903), Sch. 2, in Vol. I, p. 44.

[4] See the enactments printed under the head "Recovery of Public Demands" in Vol. IV of this Code.

[1882.]

SETTLEMENT REGULATION, 1882.

(Sec. 24.)

Provided, however, that he shall not sell any lands, houses or other real property in satisfaction of any judgment passed in favour of any individual on a summary inquiry. [1]

In cases wherein possession of lands, houses, watercourses or the like may be adjudged, it may and shall be lawful for the Collector [2] making the award to deliver over possession in the same manner and with the same powers in regard to all contempts, resistance and the like as are or may be lawfully exercised by the Courts in giving possession to an auction-purchaser; and the Zila * * [3] Adalats shall support the Collectors [2] in the exercise of the above power, and shall give effect to any orders passed by them in pursuance of it in the like manner as if the same had been passed by themselves.

Collectors [2] are further hereby empowered to place one or more peons, mirdahas, sawars or the like to aid in the maintenance of possession for the party to whom it may be awarded, in case of his deeming such a measure necessary or expedient.

[4] 24. *First*.—It shall and may be lawful for a Collector or other officer exercising the powers of Collector preparatory to making or revising a settlement as aforesaid, to depute any tahsildar, kanungo, amin or other fixed or temporary officer to any village or mahal, whether the same be managed by a zamindar or farmer or be held khas, to inquire into the various matters which such Collector or other officer is required or empowered to investigate, in order to form a settlement in the mode prescribed by this Regulation.

Collectors authorized to depute Native officers to make inquiries preparatory to settlement.

Any such Native officer so deputed as above shall be deemed to be vested with the power of summoning and examining patwaris, gumashtas or other persons by whom the accounts of the village or mahal may be kept, in the same manner and with the same powers as it provided for officers deputed under section 25, Regulation 12, 1817. [5]

Furthermore, in case the Collector or other officer may so prescribe, the said tahsildar or other person shall be empowered to make a measurement of the village or mahal into which they may be deputed, and to summon any mukaddams, padhans, raiyats or other residents, and to call upon them to

[1] So much of cl. 3 of s. 23 as prohibits the Collectors from selling land in satisfaction of summary awards for arrears of rent which may have accrued thereon, repealed by Act 8 of 1885, s. 1. See also the repeal by the Bengal Rent Act, 1859 (10 of 1859) mentioned in the footnote on p. 563, *ante*.

[2] As to the exercise of functions of Collectors by other officers, see s. post, p. 578.

[3] The words "or City", which were repealed by the Repealing Act, 4 (18 of 1874), are omitted.

[4] S. 24 (1) has been applied, by the Cess Act, 1880 (Ben. Act 9 of 1 s. 92 (printed in Vol. 1, p. 188), to the making of valuations of lands under Part II of that Act.

[5] The Bengal Patwaris Regulation, 1817. S. 25 of the Regulation is printed *ante*, p. 121.

(Secs. 26-28.)

point out the boundaries of such village or mahal, and to furnish information as to all matters relating to the land and the rights and interest attaching thereto; and any person contumaciously withholding information from an officer deputed as aforesaid shall be liable, on the same being established to the Collector's satisfaction, to the same penalty as is prescribed for patwaris refusing to attend or give evidence.

Punishment of resistance or obstruction of process or order of Collector.

Second.—Provided also that any person who may by force or threats obstruct or resist the execution of any legal process, requisition or order of a Collector or other Revenue-officer shall, in addition to the penalties prescribed by [1] [any other law] for such act, be liable to a fine not exceeding two hundred rupees, or to imprisonment in the Diwani jail for a period not exceeding two months; the said fine or other penalty to be adjudged by the Collector after proceeding duly held and recorded, and the sentence to be immediately reported to the Board to which he may be subject.

Police-officers to aid execution of process and orders of Collector.

Third.—Provided further that all police-officers shall aid and support the execution of all process and orders issued by a Collector, or other officer aforesaid, on the responsibility of the officer issuing or executing the same; and, if any affray or breach of the peace shall occur in consequence of any resistance or obstruction being made, or attempted to be made, to the legal process or order of a Collector or other Revenue-officer, the parties resisting or obstructing such process or order shall be punishable for the affray or breach of the peace, and the Revenue-officer shall not be liable to any criminal prosecution on that account.

25. [*Employment of Vakils or Agents by parties in suits before Collectors.*] *Rep. by the Pleaders, Mukhtars and Revenue Agents Act, 1865 (20 of 1865).*

Pleadings required.

26. No other pleadings shall be required from the parties in [2] [suits the cognizance of which is hereby vested in Collectors] than a plaint and answer:

Provided that, if the parties should at any time wish to file an amended plaint or an amended answer, or any explanatory motion, such subsidiary pleadings shall be received.

27. [*Stamped paper to be used.*] *Rep. by the Repealing Act, 1876 (12 of 1876).*

Collectors may try and determine

[3] 28. It shall be competent to the Collectors [4] to hear and determine

[1] The words "any other law", in s. 24 (2), were substituted for the words "the existing Regulations" by the Repealing and Amending Act, 1903 (1 of 1903), Sch. 2 Vol. I, p. 44.

[2] These words in square brackets in s. 26 were substituted for the words "such suits" by the Repealing and Amending Act, 1903 (1 of 1903).

[3] on, 1825 (9 of 1825) Regulation or under the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819 (2 of 1819), printed ante, p. 518.

[4] As to the exercise of functions of Collectors by other officers, see s. 35, post, p. 573.

[1822.]

SETTLEMENT REGULATION,

(Sec. 29.)

such suits in whatever part of the district they may occasionally be or reside :

suits in any part of their districts.

Provided that every hearing and decision be in public cutcherry or in some other place open to the public, and in the presence of the parties or of their constituted agents or vakils, if in attendance.

[1] 29. *First*.—The decisions of the Collectors on all such suits shall be appealable to the Board of Revenue or other [2] authority exercising the powers of that

Appeal to Board.

The petition of appeal shall be presented either to the Collector [3] or to the Board, [2] at the option of the party * * * [4]; * * * [5]

Procedure on such appeals.

* * [6] the Board shall not be required in ordinary cases to go into a regular investigation of the merits, but shall be authorized to dismiss the appeal without further investigation, in all cases in which, on a consideration of the final rubakari of the Collector, [3] they may not see ground to consider the decision of that officer to be unjust, erroneous or doubtful, or his proceedings in the case irregular or imperfect :

* * [6] in all cases in which the Collector, [3] may dismiss the suit for non-attendance, or on some other ground of default, without an investigation of the merits of the case, it shall be competent to the Board to direct a new trial, and, in cases in which he may neglect or delay the investigation or decision of a suit without sufficient cause, it shall be competent to the Board to interfere, and to cause the Collector [3] to proceed upon the inquiry into and determination of it.

When Board may direct new trial or interpose to correct neglect or delay.

Second.—No pleadings, except the petition of appeal, shall be required in such appeals, nor shall any fees be taken by the Board on the exhibits originally filed, or on any further documents which the Board may think it necessary to call for.

Pleadings required in appeals to Board.

Third.—If the parties choose to employ in the pleading of such appeals the same agents or vakils who were previously employed by them in the original suit, no further mukhtarname or vakalatname shall be required of them.

No mukhtarname required for same agents re-employed.

[1] As to the time for presenting an appeal see s. 29, *see* the Bengal Land-revenue Settlement Act, 1868 (Ben. Act 3 of 1868), *post*, p. 614.

[2] As to the exercise of functions of the Board of Revenue by other authorities, *see* the references cited in the footnote on p. 75 of Vol. I.

[3] As to the exercise of functions of Collectors by other officers, *see* s. 35, *post*, p. 573.

[4] The words "and shall be written on stamped paper of the value of two rupees", in s. 29 (1), which were repealed by the Repealing Act, 1876 (12 of 1876), are omitted.

[5] Words repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

[6] The words "Provided also that", which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

Respondent
to receive
notice, but
not required
to appear.

Fourth.—The respondent shall receive notice of the appeal, but shall not be compelled to appear in person or by vakil; and the appeal shall be decided on the merits of the case, notwithstanding his absence, in the same manner as if he had attended.

Board's de-
cision how far
final.

Fifth.—The decision of the Board shall be final in as far as concerns the result of the summary inquiry of the Collector * * * [1].

But decision
of Board and
Collector may
be contested
by regular
suit.

Sixth.—Any person, however, dissatisfied with the summary judgment of the Collector or the Board, and desirous of a more full and formal decision, shall be at liberty to prefer a regular suit to try the merits of the case in the Zila or other similar or superior Court in which it may be cognizable.

In such cases the summary judgment of the Collector, if not reversed or stayed by the Board, shall be carried into effect notwithstanding the institution of the regular suit.

Parties having
claims cogniz-
able by Col-
lectors, and
not wishing
summary trial,
may in first
instance bring
regular suit.

30. All persons having claims or complaints to prefer of the nature of those made cognizable by Collectors under the provisions of this Regulation, and not wishing to avail themselves of the summary process authorized in that Court, shall be at liberty to institute their claims or complaints, in the first instance, by a regular suit before the local Munsif, or in the Zila * * * [2] Adalat * * * [3] according as the suit may be cognizable in these Courts respectively * * * [4].

On appeal
against Col-
lector's deci-
sion his pro-
ceedings to be
on record.

31. *First.*—Whenever a regular suit may be instituted in a Civil Court, with a view to set aside or alter a summary judgment passed by a Collector, the proceedings held on the summary inquiry shall be called for by precept from the Court, and filed on the record of the case.

No such
appeal cogniz-
able by, or
referable to,
any Munsif.

Second.—* * * [5] All * * * [6] Munifs shall, in cases tried by them, be held and bound by the decisions passed, and records prepared, by Collectors or other Revenue-officers under the provisions of this

[1] The words "and shall be rendered in a Persian rubakari, written on stamped paper of the value of ten rupees" have been omitted: the word "Persian" was repealed by the Repealing Act, 1874 (16 of 1874), and the remaining words were repealed by the Repealing Act, 1876 (12 of 1876).

[2] The words "or City", which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[3] The words "or Provincial Court of the Division", which were repealed by the same Act, are omitted.

[4] The words "under the general Regulations for the administration of civil justice", which were repealed by the same Act, are omitted.

[5] The words "Provided also that" are omitted as having been repealed by the Repealing and Amending Act, 1908 (1 of 1908), and the words "no such suit shall be cognizable by, or referable to, any register, sadar amin or munsif, and" are omitted as having been repealed partly by Act 25 of 1887 and partly by the Repealing Act, 1874 (16 of 1874).

[6] The words "registers, sadar amins and", which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

of 1822.]

SETTLEMENT REGULATION, 1822.

(Secs. 32, 33.)

Regulation, unless the same shall have been rescinded or altered by the Board, [1] or by the Zila or other similar or superior Court, on a regular suit.

32. The Collectors [2] shall transmit to the [3] [Board] such periodical reports of the causes decided by, or depending before, them as the [3] [Board] may direct, and the [3] [Board] will also furnish to Government such abstracts of those reports, and such reports in the cases received and determined by them in appeal, as the [4] [Governor General in Council] shall from time to time require.

Periodical reports by Collectors to Boards.

33. *First*.—It shall be competent to Collectors or other [2] officers exercising the powers of Collectors to refer to arbitration any disputes cognizable by them under the provisions of this Regulation, as well as any questions or disputes of any kind respecting land or the tenures therein, or the rights dependent thereon, that may come before them, provided the parties consent to that mode of adjustment, and, on award being made, to cause the same to be executed.

Collectors authorized to refer certain cases to arbitration.

In referring cases to arbitration under the above provision, and in their general proceedings relative to such suits, the Collector [2] * * * [5] shall be competent to vest in the arbitrators the same powers and authority in regard to the summoning and examination of witnesses, and the administration of oaths [6] and to enforce the orders passed by the arbitrators under such powers, in the same manner as the Courts of Judicature are empowered to do; and all awards made on such references shall, when confirmed by the Collector, [2] have the same force and validity as a regular decree of the Adalat, and shall not be liable to be reversed or altered, unless the award shall be open to impeachment on the ground of corruption or gross partiality or shall extend beyond the authority given by the submission of the parties;

Force of awards on such reference.

[1] As to the exercise of functions of the Board of Revenue by other authorities, the footnote on p. 75 of Vol. I.

see p. 35, post, p. 573.

by the Repealing and

Amending Act, 1903 (1 of 1903), Sch. 2, printed in Vol. I, p. 44.

[4] The words "Governor General in Council", in section 32, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. 2, in Vol. I, p. 43.

[5] The words and figures "shall be guided by the rules contained in Regulation 16, 1793, and the other corresponding enactments, and in Regulation 6, 1818, in so far as the same may be applicable, and in s. 33 (1), which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[6] As to oaths, see the Indian Oaths Act, 1873 (10 of 1873), in General Acts, 1868-76, Ed. 1898, p. 41

LAND-REVENUE.
THE BENGAL LAND-REVENUE
(Sec. 34.)

[Reg. 7]

and such ground of impeachment shall be established in a regular suit in the Zila, * * [1] or other superior Court wherein the case may be cognizable.

Matter of
arbitrament
to be distinct-
ly specified in
Collector's
proceedings.

Second.—In referring any dispute to arbitration the Collector [2] shall be careful to specify in his proceedings, and in the deed of arbitration to be executed by the parties, the precise matter submitted to the arbitrators; and, if the award first made by the arbitrators shall not include all the points submitted to them, or shall be otherwise incomplete, it shall be competent to the Collector [2] again to refer the matter to them, with directions to perfect their award.

Kanungos and
tahsildars
may be em-
ployed as
arbitrators.
Power of
Collectors
to interfere
in cases of
disputed
possession;

Third.—The pargana kanungos and tahsildars may be appointed arbitrators in any case referred to arbitration under the above rules; anything in the existing Regulations notwithstanding. [3]

34. First.—When a Collector or other [2] officer exercising any of the powers vested in Collectors by the rules of this Regulation, relative to complaints of dispossession or disturbance of the possession of lands or premises, shall learn, either by a reference from the Magistrate, or by a report from any other public officer or otherwise, that any disputes exist within the tract placed under his jurisdiction, relative to any lands, premises, crops, orchards, pasture-grounds, fisheries, wells, watercourses, tanks, reservoirs or the like, likely to terminate in a breach of the peace, it shall and may be lawful for the Collector or other officer aforesaid to require the contending parties to attend in person or by representative at a stated time and place, and, after investigating the case in the presence of the parties or their representatives, or such of them as may attend, or referring it to arbitration as above prescribed, to decide the case in the same manner as if it had been brought before him by the complaint of one of the parties:

and to give
possession to
one of the
contending
parties.

Provided also that, if the fact of previous lawful possession cannot be ascertained, it shall be competent to the Collector, [2] subject to the orders and direction of the Board, to decide on the question of right, and to give possession to one of the contending parties, leaving the other party to contest the decision by a regular suit in Court; but no such decision shall be passed by any Collector [2] until he shall have instituted a careful inquiry into the fact of possession, and the Board [4] shall be careful to see that this restriction is observed:

[1] The word "City", which was repealed by the Repealing and Amending Act, 1903 (1 of 1903), is omitted.

[2] As to the exercise of functions of Collectors by other officers, see s. 35, *post*, p. 573.

[3] For additional rules as to arbitration, see the Bengal Land-revenue (Settlement and Deputy Collectors) Regulation, 1883 (9 of 1883), ss. 5 to 10, *post*, pp. 606, 607.

[4] As to the exercise of functions of the Board of Revenue by other authorities, see the references cited in the footnote on p. 75 of Vol. I.

[1893.]

SETTLEMENT REGULATION, 1893.

(Sec. 35.)

Provide further that in such cases it shall be competent to the Collector [1] to attach the disputed lands, premises, etc., as aforesaid, and to appoint an officer to the management of the same, retaining in deposit the rents and produce or such portion thereof as may remain after discharging any public revenue demandable therefrom, with the charges of management, until one of the contending parties shall be placed in possession.

Collector may attach disputed lands, etc.

Second.—Whenever any Magistrates or Joint Magistrates shall have before them any suit, complaint or information relative to any dispute regarding lands, premises, crops, watercourses or the like, which may appear likely to terminate in a breach of the peace, or which it may otherwise be desirable to bring to an immediate decision, it shall be the duty of such Magistrate or Joint Magistrate, in cases in which the Collector [1] shall be vested with the cognizance of such actions, to certify the case to that officer, and the Collector [1] will then forthwith proceed to investigate and determine the case under the rules above prescribed :

Reference of disputes by Magistrates to Collector.

Provided also that, in all cases of forcible dispossession or forcible disturbance of possession, the Collector [1] shall invariably transmit to the Magistrate or Joint Magistrate a copy of the first proceeding held by him in the case, and also a copy of the rubakari containing his final award.

Third.—The Collector [1] shall in all such cases use every proper means for inducing the parties to refer disputes to arbitration, in like manner as the Diwani Courts are directed to :

Collector to encourage arbitration.

35. Whenever the term " Board Revenue " * * * [2] may occur in this or any other Regulation, the same shall be held and considered to apply [3] to any Board, committee or commission, and to any member of such Board, committee or commission, that may be vested by the Governor General in Council with the powers and authority of the Board of Revenue, save and except in so far as may be otherwise specially declared and provided.

"Board of Revenue."

In like manner, all rules in this or any other Regulation, whereby any duties or powers may be prescribed for, or vested in, Collectors shall be held and considered to be equally applicable to any officer exercising the authority of Collector [4] under the orders [4] or with the sanction of the [5] [Governor General in Council].

Rules regarding Collectors to apply to officer exercising authority of Collect-

As to the exercise of functions of Collectors by other officers, see s. 35.

The words " or Board of Commissioners ", which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

[3] For references to further provisions on this subject, see the foot note on p. 75 of Vol. I.

[4] For an order issued with reference to this section, see the Bengal Local Statutory Rules and Orders, 1903, Vol. I, p. 77.

[5] The words " Governor General in Council " are to be read as if the words " Local Government " were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. 2, in Vol. I, p. 43.

on this page

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THE BENGAL GOVERNMENT INDEMNITY REGULATION, 1822 [1]

(REGULATION 11 OF 1822).

[22nd November, 1822.]

A Regulation * * * [2] for declaring Government not to be liable for any errors or irregularities in the proceedings of the Courts of Justice; and for making further provision for the conduct of the Revenue-officers in certain cases.

1. [Preamble.] *Rep. by the Bengal Land-revenue Sales Act, 1841 (12 of 1841).*

2. [Repeals.] *Rep. by the Repealing and Amending Act, 1903 (1 of 1903).*

3-35. [Public sale of lands for arrears of revenue.] *Rep. by the Bengal Land-revenue Sales Act, 1841 (12 of 1841).*

Rules for
khas manage-
ment applied

36. If a Collector [3] shall at any time, being so instructed by either the Government or the Board, [4] purchase on account of Government an estate

[1] SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), printed in Vol. I, p. 18.

LOCAL EXTENT.—Ss. 36 and 38 of this Regulation have been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed, General Acts, 1868-76, Ed. 1893, p. 484), to be in force throughout Bengal, except as regards the Scheduled Districts.

Ss. 36 and 38 have been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the following Scheduled District, namely:—

West Jalpaiguri, in the Jalpaiguri District—*see* Vol. V, Part V B (a).

S. 38 has been declared, by notification under the same Act, to be in force in the following Scheduled Districts, namely:—

the Hazaribagh, Ranchi, Palamau and Manbhum Districts, and Pargana Dhalbhum, the Koihan, and the Porahat Estate in the Singhbhum District, in the Chota Nagpur Division—*see* *ib.*, Part V B (b).

S. 38 is in force in the Angul District—*see* Vol. V, Part VI B (a); but the application of s. 36 in that District is barred by the Angul District Regulation, 1894 (1 of 1894), s. 3 (2), in Vol. I, p. 257.

The application of ss. 36 and 38 in the other de-regulationised tracts in Bengal is barred as follows, namely:—

~~In the Chittagong—~~

~~1899, s. 4 (2).~~

in the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation (3 of 1872), s. 3 (2), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s. 3, printed in Vol. I, p. 294.

REPRINT.—Ss. 36 and 38 of this Regulation are reprinted in the Sale Law Manual, 1902, p. 118.

[2] The words “for modifying and explaining the existing Regulation relative to the sale of land for the recovery of arrears of revenue”, which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

[3] As to the exercise of functions of Collectors by other officers, *see* the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *ante*, p. 573.

[4] As to the exercise of functions of the Board of Revenue by other authorities, *see* the references cited in the footnote on p. 75 of Vol. I.

of 1822.]

INDEMNITY REGULATION, 1822.

(Sec. 38.)

exposed to sale for the recovery of arrears of revenue, the rules applicable to the management of ordinary malguzari mahals held khas or farmed shall be considered applicable to such estate, and also to all other estates the property of Government, according as they may be held khas or let in farm. to purchases by Government.

37. [*Collector's power to punish for contempt.*] *Rep. by the Bengal Land-revenue Sales Act, 1841 (12 of 1841).*

38. It is hereby declared and enacted that Government is not and shall not be held liable for any error or irregularity which may have occurred, or shall occur, in any order, proceeding or decree of any Court of Judicature, whether a revenue or other officer of Government may or may not have been, or shall or shall not be, employed in giving effect to the order, proceeding or decree deemed to be erroneous or irregular. Government not liable for errors of Courts.

Nor shall any officer of Government be held liable for anything done or suffered in conformity with an order, proceeding or decree of a Court as aforesaid; and if any person or persons shall sue Government or any officer of Government for anything done or suffered under an order, proceeding or decree of Court as aforesaid, such person or persons shall be non-suited, with costs.

The same principle is and shall be held applicable to all orders, proceedings or decrees made, held or passed by any public officer, in virtue of powers vested in him for the judicial cognizance of any pleas, suits, complaints or informations whatsoever, unless otherwise specially provided.

39. [*Saving of Ben. Reg. 1 of 1821.*] *Rep. by the Bengal Land-revenue Sales Act, 1841 (12 of 1841).*

THE BENGAL LAND-REVENUE SETTLEMENT REGULATION, 1925 ^[1]

REGULATION 9 OF 1925).

[5th May, 1925.]

A Regulation for extending the operation of Regulation 7, 1822, ^[2] for authorizing the Revenue-authorities to let in farm estates under temporary leases, on the default of the malguzars, or to hold the same khas for a term of years; for modifying and adding to the rules contained in Regulation 2, 1819 ^[3]; and for making certain other amendments in the existing Regulations.

Preamble.

1. WHEREAS the provisions of Regulation 7, 1822, ^[2] are in force only within the Ceded and Conquered Provinces, in the district of Cuttack, and in the pargana of Pataspur and its dependencies;

And whereas there are within the other Provinces belonging to this Presidency various mahals and tracts for which a permanent settlement has not yet been concluded, and it appears to be advisable that the Revenue-authorities

[1] SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), printed in Vol. I, p. 18.

LOCAL EXTENT.—This Regulation was passed for the whole of Bengal—see s. 1.

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), section 6 (printed, General Acts, 1868-76, Ed. 1898, p. 484), to be in force throughout Bengal except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the following Scheduled Districts, namely:—

the Hazaribagh and Manbhum Districts, and the pargana Dhalbhum in the Singhbhum District, in the Chota Nagpur Division—see Part V B (b).

The application of the Regulation in the de-regulated tracts in Bengal is barred as follows, namely:—

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), section 3 (2), printed in Vol. I, p. 257;

in the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation (3 of 1872), section 3 (2), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), section 3, printed in Vol. I, p. 94.

EXTENSION OF APPLICATION.—This Regulation has been extended to estates dealt with under the Bengal Land-revenue Sales Act, 1859 (11 of 1859)—see s. 60 of that Act, in Vol. IV of this Code.

RULES.—As to proceedings under Regulation 9 of 1825 for the assessment to revenue of land held free, see the Survey and Settlement Manual, 1900, p. 106.

[2] The Bengal Land-revenue Settlement Regulation, 1822. It is printed *ante*, p. 539.

[3] The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed *ante*, p. 518.

of 1825.]

SETTLEMENT REGULATION, 1825.

(Sec. 2.)

should be vested, in regard to such mahals and tracts, with the same powers as belong to the like officers within the Ceded and Conquered Provinces;

And whereas the principle of the rules contained in the said Regulation, relative to lands held free of assessment, or at a mukarrari jama under special grants, is equally applicable to such tenures in all parts of the country; and it appears to be likewise expedient to make provision for the occasional exercise, by the Revenue-officers in the Lower Provinces, of the powers specified in the said Regulation, for the summary trial of certain suits between individuals, subject as therein provided to an appeal to the Adalat by a regular suit;

And whereas, a frequent recourse to the sale of lands for the recovery of arrears of revenue in districts of which the assessment has not been fixed in perpetuity being inexpedient, it appears to be necessary and proper that the Revenue-authorities should be empowered to let in farm for a term of years the estates of defaulters under temporary leases, or to hold the same khas for the purpose of making a raiyatwar settlement, where that measure may be deemed advisable;

And whereas it has appeared to be expedient to modify and to add to the provisions contained in Regulation 2, 1819 [1]; * * * * * [2];

The following rules have been enacted, to be in force from the date of their promulgation, within the Provinces belonging to the Presidency of Fort William.

2. *First*.—The provisions contained in clause sixth, section 2, and in the thirty-three following sections of Regulation 7, 1822, [3] are hereby extended to all lands (including jagirs, mukarraris and other tenures held free of assessment or at a quit-rent under special grant) not included within the limits of estates for which a permanent settlement has been concluded in the manner prescribed by Regulation 8, 1793, [4] * * * [5] as far as the same may be applicable. Provisions of Regulation 7, 1822, extended to lands not within limits of permanently-settled estates.

Second.—The said provisions shall likewise be in force in all estates [6] which may now or hereafter be held khas, during the period for which they may be so managed. To be in force in estates held khas;

Third.—The provisions aforesaid shall also apply to the Sundarbans, the and applicable

[1] The Bengal Land-revenue Assessment (Resumed Land) Regulation, 1819. It is printed *ante*, p. 518.

[2] Portion of the preamble which was repealed by the Licensing and Amending Act, 1891 (12 of 1891), is omitted.

[3] The Bengal Land-revenue Settlement Regulation, 1822. It is printed *ante*, p. 539.

[4] The Bengal Decennial Settlement Regulation, 1793. It is printed *ante*, p. 456.

[5] The words "and Regulations 2 and 22, 1795," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

[6] As to tahsildars employed in the Chittagong District for management of the five Government khasmahals there, see the Government Estates Manual, 1861, p. 63.

to Sunder-
bans, &c.

hill lands of Bhagalpur, and other extensive forests and wastes, not included within the limits of parganas, mauzas or other revenue divisions, specified at the time of settlement as belonging to the mahals then assessed, as well as to all estates bordering on such forests or wastes.

Power to vest
Collector, &c.,
with powers
specified in
section 20,
Regulation
7 of 1822.

3. It shall be competent to the [1] [Governor General in Council] to vest any Collector or other officer exercising the powers of Collector within the Provinces of Bengal, Bihar [2] [or] Orissa, * * [3] with the several powers specified in section 20, Regulation 7, 1822, [4] in the manner specified in the second clause of that section, within such local limits as may, from time to time, appear to be advisable; and the several provisions contained in section 21 and the fourteen following sections shall apply to the several parganas or other local divisions so placed under the jurisdiction of the Collector or other officer aforesaid.

Procedure
when arrear
of revenue on
account of
mahals not
permanently
assessed is not
paid within
one month
after due
date, and ob-
jections ap-
pear to public
sale.

4. Whenever an arrear of revenue shall accrue on account of any mahal for which an engagement may have been taken by the proprietors or persons recorded as proprietors, not being an estate of which the assessment has been fixed in perpetuity, and the malguzars shall fail to discharge the same within one month of the date on which it became due, then, if there shall appear to be any objection to the sale of the estate, and the arrears cannot otherwise be recovered (on which points the decision of the Revenue-authorities is to be held conclusive), it shall be competent to the Collector or other officer exercising the powers of Collector, with the sanction of the Board, [5] and subject to the orders of Government, to annul the existing engagements with the malguzars, and to let the mahal in farm for such period, not exceeding fifteen years, as the [1] [Governor General in Council] may appoint, or to hold the mahal under khas management for a like period.

In such cases, if the mahal shall yield a higher jama than that for which the malguzars may have engaged, the excess shall in the first place be appropriated to the liquidation of the arrear due on account of it, or such portion thereof as the farmer may not have separately agreed to discharge or as may not otherwise have been recovered; and, out of any surplus remaining,

[1] The words "Governor General in Council" are to be read as if the words "Local Government" were substituted therefor, ~~see~~ the Repealing and Amending Act, 1903 (1 of 1903), Sch. 2, in Vol. I, p. 44.

[2] The word "or", in s. 3, was inserted by the Repealing and Amending Act, 1903 (1 of 1903).

[3] The words "and Benares", which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

[4] The Bengal Land-revenue Settlement Regulation, 1822. It is printed *ante*, p. 539.

[5] As to the exercise of functions of the Board of Revenue by other authorities, ~~see~~ the references cited in the footnote on p. 75 of Vol. I.

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the malguzars shall receive such malikana, not being less than five *per cent.* nor more than ten *per cent.* on the assessment of the last year of their engagement, as the [1] [Governor General in Council] may direct.

[2] 5. *First.*—The following rules are enacted in modification of sections 5, 6, 8, 10, 11, 13, 15, 22 and 30 [3] of Regulation 2, 1819 [4].

Modification of Regulation 2, 1819.

Collector making settlement to issue notification and require appearance of persons holding lands free of assessment;

Second.—Whenever a Collector or other [5] officer exercising the powers of Collector shall visit, or be about to visit, any mahal for the purpose of making a settlement in the manner prescribed in Regulation 7, 1822, [6] it shall be competent to him, by a notification to be stuck up in some conspicuous place within such mahal, and each village thereof, if consisting of several villages, to require all persons holding lands free of assessment or at a fixed jama, within or adjoining to the village or villages in which the lands of such mahal or any part thereof may be situate, to appear before him either in person or by wakil within a reasonable time, not being less than one month from the date of such notification, at such place within the mahal as he may select for holding his office, and to attend him from day to day while he may continue within the mahal, with all sanads or other writings in virtue of which they may possess the lands, or under which the lands may have been, or may be claimed to be, held free of assessment or at fixed jama, together with any evidence they may desire to have taken in support of their claims.

may cause lands to be measured;

Third.—It shall likewise be competent to Collectors and other officers aforesaid, when engaged in the settlement of any mahal under the rules of the Regulation above-mentioned or preparatory thereto, to measure or cause to be measured, without a previous reference to the Board of Revenue, [7] all lands, whether malguzari or lakhiraj, belonging or adjoining to the village or villages in which such mahal or any part thereof may be situated.

[1] The words "Governor General in Council" are to be read as if the words "Local Government" were substituted therefor—*see* the Repealing Amending Act, 1903 (1 of 1903), Sch. 2, in Vol. I, p. 44.

[2] As to suits under section 5, *see* the Bengal Land-revenue Settlement Regulation, 1828 (3 of 1828), s. 10 (3), (4), *post*, p. 593.

S. 30 of Ben. Reg. 2 of 1819 was repealed by the B. Act, 1882 (Ben. Act 7 of 1882), s. 1, and a new provision in thereof was enacted by s. 2 of the same Act, printed *post*, p. 612.

[4] The Bengal Land-revenue Assessment (Resumed Land) Regulation, 1819. It is printed *ante*, p. 618.

[5] As to the exercise of functions of Collectors by other officers *see* the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *ante*, p. 578.

[6] The Bengal Land-revenue Settlement Regulation, 1822. It is printed *ante*, p. 539.

[7] As to the exercise of functions of the Board of Revenue by authorities, *see* the references cited in the footnote on p. 75 of Vol. I.

to give public notice one day previous to that on which it is intended to hold proceedings.

Fourth.—When the Collector or other [1] officer aforesaid shall have commenced the settlement of any mahal in regard to which he may have issued a notification as aforesaid, and shall propose to hear the claims of persons holding lands free of assessment or at a fixed jama, and to receive their sanads and other writings as aforesaid or any of them, the period fixed in the notification for the attendance of such parties being arrived, he shall, on the day preceding that on which he may intend to hold proceedings in the said cases or any of them, notify such intention by an istahar stuck up in his office and in some place open to the public within the mahal.

Procedure on failure of persons to attend after notice.

Fifth.—If any person holding land free of assessment or at a fixed jama as aforesaid shall fail to attend either in person or by vakil, after notice being given in the manner above prescribed, the Collector [1] shall be competent to proceed *ex parte* to investigate the title of such party to hold the land in his possession free of assessment, and with the sanction of the Board of Revenue [2] to resume the said lands, if they appear to be held on an invalid title.

Nor shall any person defaulting as above, or neglecting to appear and give answer when required to do so, in the manner prescribed in Regulation 2, 1819, [3] be entitled to stay the resumption and assessment of his lands under the rule contained in section 22 of that Regulation :

Provided, further, that the rule contained in clause *second*, section 18, Regulation 2, 1819, [3] shall be and be held applicable to such persons, as well as to persons who may appear when summoned under the provisions of that Regulation, or in the manner hereinbefore provided.

Collector may either complete investigation of claims or limit proceedings to certain points.

Sixth.—It shall be competent to Collectors and other officers making settlements as aforesaid either to complete the investigation of the claims of persons holding land free of assessment or at a fixed jama, under the rules of the 15th and following sections of Regulation 2, 1819, [3] with the modifications hereinafter provided, during the progress of the settlement, or to limit their proceedings to the ascertainment of the land actually held under such tenures, and the record of the title-deeds produced by the parties, postponing the further investigation of the case to a future period.

When any Collector or other officer may postpone the investigation of any

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *ante*, p. 578.

[2] As to the exercise of functions of the Board of Revenue by other authorities, see the references cited in the footnote on p. 75 of Vol. I.

[3] The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is intended *ante*, p. 518.

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case as aforesaid, he shall at the same time notify to the party the time and place at which the further investigation is to be held, or, if circumstances prevent him from doing so, he shall, before resuming the inquiry, give the party one month's notice to attend, and, on the failure of any party to attend when so warned, the Collector or other officer aforesaid shall be competent to proceed to try the case *ex parte*, and, with the sanction of the Board, to resume and assess the lands.

Seventh.—Collectors or other officers who may proceed to investigate claims to lakhiraj lands during the progress of a settlement shall follow the rules of the 15th and following sections of Regulation 2, 1819, [1] in all cases wherein the parties may attend and deny the liability of their lands to assessment, subject to the modifications hereinafter provided.

What provisions to regulate investigation of claims to lakhiraj lands.

Eighth.—No lands shall be resumed by a Collector, [2] even though the parties may confess that they are liable to assessment, without the sanction of the Board of Revenue, [3] save and except as hereinafter provided; but on such confession duly attested, which will of course supersede the necessity of any further inquiry, it shall be competent to the Board forthwith to direct the lands to be assessed, unless the same be held by village or zamindari servants in lieu of wages, which shall not be resumed without the sanction of Government:

Bar to resumption of lands without sanction.

Procedure by Board.

Provided also that in all cases wherein it may appear to the Board that the resumption of lands held free of assessment would occasion serious distress to the holders, it shall be their duty to submit a report of the circumstances to the [4] [Governor General in Council].

Ninth.—The provisions of clause *first*, section 23 * * * [5] and section 28, Regulation 7, 1822, [6] shall be applicable to cases investigated by Collectors under the rules of Regulation 2, 1819, [1] or under the provisions of this Regulation.

Regulations applied to investigation by Collectors.

Tenth.—It shall not be necessary to use stamped paper for the proceedings Stamped

[1] The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed *ante*, p. 518.

[2] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *ante*, p. 573.

[3] As to the exercise of functions of the Board of Revenue by other authorities, see the references cited in the footnote on p. 75 of Vol. I.

[4] The words "Governor General in Council" are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. 2, in Vol. I, p. 44.

[5] The word and figures "section 25" have been omitted in consequence of the repeal made by the Pleaders, Mukhtars and Revenue Agents Act, 1835 (2 of 1835).

[6] The Bengal Land-revenue Settlement Regulation, 1822. It is printed *ante*, p. 539.

paper not
necessary.

Award of
charges to
witnesses.

held or exhibits filed before the Revenue-authorities in cases originating with a Collector or other officer of Government claiming to assess land held free of assessment; but the said authorities are authorized in the said cases, as in all other cases wherein they may exercise judicial powers * * * [1] to award to witnesses their reasonable charges, and to levy the same, as well as all costs adjudged by them, by the process [2] in force for the recovery of arrears of the Government revenue.

Procedure for
persons claim-
ing to hold
lands revenue-
free.

Eleventh.—Persons claiming to hold lands exempt from revenue shall, with their petitions of plaint, deliver to the Collector [3] or other officer to whom the same may be preferred all sanads and other writings on which their claim may be founded; and shall insert in the said petition a full specification of the several particulars required to be registered by the rules in force relative to the registry of rent-free tenures, and of the grounds on which their claim is founded.

Investigation.

If the claim shall involve only the interests of Government, the Collector [4] shall proceed without delay to investigate the case, giving, however, eight days' previous notice to the party of the day on which he may propose to bring it to a hearing in the mode prescribed for the Civil Courts.

If the claim shall be against any individual singly or jointly with Government, the Collector [4] shall serve him with a notice containing a statement of the demand, and requiring his attendance in person or by vakil duly authorized, within the period of one month, with any papers or evidence he may desire to produce in denial of the claim; and, on the appearance of such defendant, the Collector, [4] after allowing him to inspect and examine the claimant's petition of plaint, and the writings therein referred to, shall call upon him to deliver, within the period of seven days, a statement of the objections he may desire to urge against the claim.

Pleadings.

In such cases no other pleadings shall be required from the parties than a plaint and answer, but it shall and may be lawful for Collectors [4] to receive and record such subsidiary pleadings as may appear requisite for the elucidation of the merits of the claim.

Collectors [4] shall proceed to investigate every such case as soon as possible

[1] The words "under the provisions of the existing Regulations", which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

[2] See the enactments printed under the head "Recovery of Public Demands" in Vol. IV of this Code.

[3] But see s. 2 of the Bengal Land-revenue Resumption Act, 1862 (Ben. Act 7 of 1862), *post*, p. 612.

[4] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *ante*, p. 573.

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after the answer of the defendant shall be received; giving, however, as aforesaid, eight days' previous notice to the parties of the day on which he may propose to bring it to a hearing:

Provided that, in cases wherein the parties concerned or their authorized representatives shall desire or consent (the same being signified in a written petition or ikrarnama to be filed with the proceedings) to have an immediate decision, whether the case shall originate in a claim on behalf of Government or in the suit of an individual, and whether the proceedings of the Collector [1] shall be held under the provisions of Regulation 2, 1819, [2] or under those of this or any other Regulation touching the matter, it shall be competent to the Collector [1] to proceed forthwith to the investigation and decision of the case, without issuing any formal summons or notice.

Summary proceedings.

Twelfth.—Whenever a Collector or other officer exercising the powers of Collector shall be of opinion that any tract of land belongs to Government, and that no individual has *bond fide* possession thereof, it shall be competent to him, by a notification to be stuck up in his cutcherry, in the Zila Court and in the cutcherry of the kanungo, Munsif or thanadar to whose jurisdiction the land in question may belong or adjoin, to require all claimants to the same to appear before him within a reasonable time, to be fixed by the Board of Revenue, [3] not being less than six weeks from the date of such notification; and, on the appearance of such claimants, to proceed to investigate their claims in the manner prescribed by Regulation 2, 1819, [2] for investigations relative to the liability of lands to be assessed as herein modified:

Procedure as to land appearing to belong to Government and no person *bond fide* in possession.

Provided further that, if the Collector or other officer aforesaid shall decide that none of the claimants have *bond fide* possession of the lands in question, and his decision shall be affirmed by the Board of Revenue, [3] the said lands shall be at the disposal of Government until the same shall be adjudged to be private property by a decree of Court on a regular suit.

Provided also that all such suits, if preferred by one of the claimants before the Collector, [1] shall be dismissed, with costs, unless instituted within six weeks of the date on which the Board may affirm the decision of that officer, and that the rule contained in clause second, section 13, Regulation 2, 1819, [2] shall be strictly applied to such suits: nor shall any such suit be admitted on the part of any person who may not have appeared before the

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *ante*, p. 573.

[2] The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed *ante*, p. 618.

[3] As to the exercise of functions of the Board of Revenue by other authorities, see the references cited in the footnote on p. 75 of Vol. I.

THE BENGAL LAND-REVENUE SETTLEMENT REGULATION, 1825. [Reg. 9 of 1825.]

(Secs. 6-8.)

Collector [1] pursuant to notice, unless he shall be able to show good and sufficient cause for his non-appearance and shall apply for permission to sue within six weeks of his being informed of the Board's decision :

Provided further that, if the party shall not prosecute his suit within six weeks of being permitted to sue, the suit shall be dismissed with costs.

Power to vest Collector, deputed to hold local inquiry within mahal, with same powers in regard to lands held free of assessment in villages adjoining mahal.

6. It shall be competent to the [2], [Governor General in Council], by [3] [an Order in Council], to vest any Collector or other officer who may be deputed to hold a local inquiry within the limits of any mahal with the same powers and authority in regard to all lands held free of assessment within or adjoining to the village or villages in which the lands of such mahal or any part thereof may be situated, and for the investigation of all claims touching such lands as by the foregoing provisions are vested in Collectors [1] making settlements in the manner prescribed by Regulation 7, 1822, [4] and also from time to time to depute Collectors or other officers aforesaid for the purpose of ascertaining, recording or investigating the said claims in the manner above prescribed.

Lands held free of assessment to be specified in proceedings.

7. The particulars of all lands held free of assessment within all villages and mahals of which the settlement may be made under the provisions of Regulation 7, 1822, [4] shall be fully recorded in the proceedings of the Collector or other officer making the settlement.

Saving of certain Regulations.

8. Nothing contained in Regulation 2, 1819, [5], or in any other Regulation in force, shall affect, or be considered to affect, the provisions contained in section 10, Regulation 19, 1793, [6] * * * [7], relative to grants illegally made subsequently to the dates specified in the said [8] [section] : and in all cases in which it shall be established to the satisfaction of the Revenue-authorities that any lands now held free of assessment were subject to the payment of the revenue at the dates aforesaid or subsequently thereto, and that they have not been thereafter exempted from the payment of revenue

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *ante*, p. 573.

[2] The words "Governor General in Council" are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. 2, in Vol. I, p. 44.

[3] The words "an Order in Council" are to be read as if the words "notification in the local official Gazette" were substituted therefor—see the same Act and Schedule.

[4] The Bengal Land-revenue Settlement Regulation, 1822. It is printed *ante*, p. 539.

[5] The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed *ante*, p. 518.

[6] The Bengal Revenue-free Lands (Non-Badahahi Grants) Regulation, 1793. It is printed *ante*, p. 468.

[7] The words and figures "section 11, Regulation 31, 1803, and in the corresponding enactments applicable to Benares and the Conquered Provinces," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

[8] The word "section", in s. 8, was substituted for the words "rules respectively" by the Repealing and Amending Act, 1903 (1 of 1903), Sch. 2, printed in Vol. I, p. 45.

[Reg. 13 of 1825.] THE BENGAL LAND-REVENUE SETTLEMENT (RESUMED KANUNGOS AND REVENUE-FREE LANDS) REGULATION, 1825.

under the authority of the [1] [Governor General in Council,] nor adjudged to be exempted from payment of revenue under a regular decree of Court, it shall and may be lawful for the said authorities forthwith to resume and assess the said lands; save and except in cases wherein the revenue of the same may belong to a zamindar, talukdar or other malguzar with whom a permanent settlement has been concluded; shall the provisions of section 22, Regulation 2, 1819, [2] apply to such es.

9. [Rules relative to the abolition of the said duties, &c., applicable to what cases.] Rep. by the Repealing and Amending Act, 1891 (12 of 1891).

THE BENGAL LAND-REVENUE SETTLEMENT (RESUMED KANUNGOS AND REVENUE-FREE LANDS) REGULATION, 1825 [3]

(REGULATION 13 of 1825).

[7th July, 1825.]

A Regulation to maintain the settlement made for certain lands held exempt from the payment of revenue by kanungos in the Province of Bihar: and to provide for the future settlement of such lands, as well as of the lands composing other resumed lakhiraj tenures, with the present occupants, when so directed by Government.

1. WHEREAS it was enacted by section 5 \ Regulation 2 of 1816, [4] Preamble.

[1] The words "Governor General in Council" are Government" were substituted therefor—see the Repealing be read as if the words "Local Amending Act, 1903 (1 of 1903), Sch. 2, in Vol. I, p. 44.

[2] The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed ante, p. 518.

[3] SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), printed in Vol. I, p. 18.

LOCAL EXTENT.—This Regulation was passed for the whole of Bengal—see s. 1.

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), section 6 (printed, General Acts, 1868-76, Ed. 1898, p. 484), to be in force throughout Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), section 3, to be in force in the following Scheduled Districts, namely:—

the Hajiaribagh and Manbhoom Districts, and Pargana Dhalb in the Singhbhum District in the Chota Nagpur Division—see No. 1, Part V B (b) Vol. I.

The Regulation is in force in the Sonthal Parganas—see Vol. V Part VI B (c); but its application in the other de-regulationised tracts in Bengal is barred as follows, namely:—

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), section 3 (2), printed in Vol. I, p. 257.

1868) section 4 B, printed in Vol. I, p. 232.

[4] Reg. 2 of 1816 as repealed by the Repealing Act, 1868 (8 of 1868).

(Sec. 1.)

that the revenue of lands held by kanungos, generally in the Province of Bihar, in virtue of their offices, should be liable to resumption ; and accordingly under that law, various resumptions of land so held took place, and the parties to whom the zamindari interest in the same appeared to belong were admitted to engage for the Government revenue ; but, on the consideration of the proceedings held under the provisions of the above rule, it appeared to the Governor General in Council to be improper wholly to deprive the kanungos or their representatives of the advantages derived from such lands, and enjoyed by them for a long course of years ; and it was accordingly resolved by Government, on the 14th February, 1822, that in cases where the lands had been occupied and managed by the kanungos or their representatives, and the rents received by them, they should be replaced in possession of such lands, and a settlement made with them on the principle prescribed by clause second, section 8, Regulation 19 of 1793, [1] namely, the revenue to be paid to Government to be equal to one-half of the annual produce (or rental) of the lands, calculated according to the rates at which other lands in the pargana of a similar description may be assessed, securing to the proprietors of the soil such malikana or other allowance as they might have received prior to the resumption of the official minha tenure ;

And whereas the existing laws relative to the settlement of resumed lakhiraj tenures are not properly applicable to the case, and it appears to be expedient expressly to provide for the maintenance by the Courts of Judicature of the arrangement above described, in order that the kanungo minhadars may be secured in the possession (subject to the quit-rent fixed by Government) of the lands, rents and produce heretofore possessed by them ;

And whereas it is desirable to provide for the settlement, on the same principle, of any lands that may be resumed under the corresponding rules relating to kanungos and their official tenures in other parts of the country ;

And whereas it appears to be generally expedient to make a distinct provision for securing to the holders of lakhiraj lands resumed by the officers of Government, and assessed on the principle prescribed in clause second, section 8, Regulation 19, 1793, [1] the benefits which that law was designed to bestow, and to declare the competency of Government, in other cases, to continue persons who have heretofore occupied lands free of assessment, or their repre

[1] The Bengal Revenue-free Lands (Non-Badshahi Grants) Regulation, 1793. It is printed ante, p. 468.

of 1825.] (RESUMI KANUNGOS AND REVENUE-FREE LANDS) REGULATION, 1825.

(Sec. 2.)

representatives, in the position of the same, notwithstanding such lands being made subject to assessment

The following rules have been enacted for these purposes respectively, to be in force throughout the territories subject to the Presidency of Fort William from the date of the promulgation of this Regulation.

2. In case of lakhiraj tenures resumed under the provisions of Regulation * * * [1] 5, 1816 [2] or any other Regulation in force, relative to lands held by kanungos by virtue of their offices, where the minha or lakhiraj tenure, and the right of property in the land, are vested in distinct parties, it shall be competent to the [3] [Governor General in Council,] by instruction to the Revenue Board or other authority empowered to make the resumption, to continue the minhadars and their heirs in possession and management of such lands, subject to such assessment as [3] [he] shall judge it proper to direct; and the parties claiming the zamindari interest or other proprietary right in such mahals shall not be entitled to any land-rent, produce or profit beyond what they may have enjoyed up to the period of the resumption of the tenure, or would have been entitled to receive, in the event of Government having confirmed the same in perpetuity, free of assessment.

Power to continue minhadars and their heirs in possession of resumed lands, heretofore held as lakhiraj by kanungos.

Persons, consequently, claiming to be maliks of the said lands, who, during the continuance of the lakhiraj tenure, had not possession of the same, whether they received a malikana allowance or otherwise, shall not disturb the possession of the minhadars or their heirs and representatives, in any case wherein the [3] [Governor General in Council] may have sanctioned such possession; and any suit preferred by such persons in a Court of Judicature to recover possession, contrary to the intent and meaning of this rule, shall be dismissed with costs:

Provided, however, that in all cases of the nature above-mentioned, wherein the zamindar or other proprietor of the land may have received malikana or other proprietary due during the existence of the lakhiraj tenure, he shall continue to receive the same, notwithstanding the resumption of the lakhiraj, in like manner as if such resumption had not taken place.

[1] The words and figures "4, 1808, Regulations 2 and," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

[2] The Bengal Kanungos Regulation, 1816. It is printed *ante*, 111.

[3] The words "Governor General in Council" and "he", in section 2, are to be read as if the words "Local Government" and "it", respectively, were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. 2, in Vol. I, p. 45.

THE BENGAL LAND-REVENUE SETTLEMENT (RESUMED KANU) GOS AND REVENUE-FREE LANDS) REGULATION, 1825. [Reg. 13 of 1825.]

(Secs. 3-5.)

Tenures of minhadars so situated declared hereditary and transferable. *

3. The tenures of the minhadars which have been confirmed to them with the sanction of Government by the arrangement referred to in the preamble of this Regulation, or which may be so confirmed in conformity with the preceding section, are declared to be hereditary and transferable; but, should they escheat to Government, the parties possessing a zamindari interest or other proprietary right in the lands will be admitted to engage for the revenue subject to a fresh assessment to be adjusted on the actual assets under the general [1] [law].

Foregoing sections applied to certain lakhiraj resumptions.

4. The principles of sections 2 and 3 of this Regulation shall be considered applicable to all cases of lakhiraj resumption under the general Regulations in force, which may come within the favourable rule of assessment contained in the second clause of section 8, Regulation 19, 1793, [2] in the Provinces of Bengal, Bihar and Orissa * * * [3]; it being the evident intention of the rule in question that it should be applied to persons who had been long in possession of the lakhiraj tenures made subject to assessment by [4] [the Regulation] above cited, and whom it appeared equitable, in consideration of their long possession, to leave in occupancy of the lands composing their respective tenures, at a moderate assessment, not exceeding a moiety of the annual rent-produce.

Modification of enactments relative to settlement of resumed jagir, altamgha, madadmash, aima or other badshahi grants, and to resumption of lakhiraj tenures.

5. In modification of the existing rules contained in [5] [Regulation] 37, 1793, [6] * * * [7] or any other Regulation in force, relative to the settlement of resumed jagir, altamgha, madadmash, aima and other grants of land termed badshahi or royal; and generally in qualification and explanation of all the rules in force relative to the resumption of lakhiraj tenures, and the future assessment of lands composing the same, it is hereby further declared that whenever such tenures may be pronounced invalid or extinct by a Revenue Board or other authority empowered to investigate the lakhiraj title in such tenures, under the provisions of Regulation 2, 1819, [8] or of any

[1] The word "law", in s. 3, was substituted for the word "Regulations" by the Repealing and Amending Act, 1891 (1 of 1891), printed in Vol. I, p. 45.

[2] The Bengal Revenue-free Lands (Non-Badshahi Grants) Regulation, 1793. It is printed *ante*, p. 468.

[3] The words and figures "or the second clause of section 8, Regulation 41, 1795, in the Province of Benares," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

[4] The words "the Regulation", in s. 4, were substituted for the words "the Regulations" by the Repealing and Amending Act, 1891 (12 of 1891).

[5] The word "Regulation", in s. 5, was substituted for the word "Regulations" by the Repealing and Amending Act, 1891 (12 of 1891).

[6] The Bengal Revenue-free Lands (Badshahi Grants) Regulation, 1793. It is printed *ante*, p. 485.

[7] The figures and word "42, 1795, and 36, 1803," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

[8] The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed *ante*, p. 518.

[Reg. 14 of 1825.] THE BENGAL REVENUE-FREE LANDS REGULATION, 1825.

other Regulation in force, it shall be competent to the [1] [Governor General in Council], on a special report of the circumstances of the case, when it may appear just and proper in consideration of the long possession of the actual occupant of the land or of his ancestors, to direct his continuance in possession, though not the zamindar, talukdar or other malik of the land, on his engagement for the future assessment on such terms as may be prescribed by Government, and in such cases the whole of the provisions contained in sections 2 and 3 of this Regulation shall be deemed applicable, and be maintained by the Courts of Judicature accordingly.

THE BENGAL REVENUE-FREE LANDS REGULATION, 1825 [2]
(REGULATION 14 OF 1825).

[14th July, 1825.]

A Regulation to declare the extent of the authority possessed by the Revenue-authorities, subordinate to the Governor General in Council, in the confirmation of lakhiraj tenures; to define the principles to be followed in determining on the force and validity of grants made by persons exercising authority in different quarters previously to the acquisition of the country by the British Government * * * [3].

1. WHEREAS doubts have arisen as to the extent of the authority possessed Preamble.

[1] The words "Governor General in Council" are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1908 (1 of 1908), Sch. 2, in Vol. I, p. 45.

[2] SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), printed in Vol. I, p. 18.

LOCAL EXTENT.—This Regulation was passed for the whole of Bengal—see the end of section 1.

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), section 6 (printed, General Acts, 1868-76, Ed. 1898, p. 484), to be in force throughout Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), section 3, to be in force in the following Scheduled District, namely:—

~~Upajura, in the Jalpaiguri District—see~~
the Hazaribagh and Manbhum Districts, and Pargana Dhalbhum in the Singhbhum District, in the Chota Nagpur Division—see Vol. V B (6). *Vol. R*

It is in force in the Sonthal Parganas—see Vol. V, Part VI B (c); but its application in the other de-regulationised tracts in Bengal is barred as follows, namely:—

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), section 3 (2), printed in Vol. I, p. 257, and

[3] Portion of the title which was repealed by the Repealing and Amending Act, 1908 (1 of 1908), is omitted.

by the Revenue-authorities subordinate to the Governor General in Council in regard to the confirmation of lakhiraj tenures, which it is expedient to remove; and it is also desirable further to define the principles to be followed in determining on the force and validity of grants made by persons exercising authority in different quarters, previously to the acquisition of the country by the British Government; * * * [1]

And whereas it is enacted by clause first, section 26, Regulation 2, 1819, [2] that in suits instituted in the Zila Courts to contest the decisions passed by the Revenue Boards under the provisions of that Regulation, * * [1] an appeal shall be received by the Sadar Diwani Adalat * * [8]; and it appears to be expedient that * * * [4] cases wherein the decision of the Court may be opposed to the judgment of the Board of Revenue or other [5] authority exercising the powers of that Board, * * [6] should be open to a regular appeal,

the following rules have been enacted, in addition to, and in modification of, the provisions of Regulations 19, [7] and 37, [8] 1793, * * * [9] of such parts of [10] [Regulation] 12, [11] 1805, as refer to lakhiraj lands, and of Regulation 2, 1819, [2] to be in force from the date of their promulgation throughout the Provinces immediately subject to the Presidency of Fort William.

2. It is hereby declared and enacted that the power of granting lakhiraj tenures, namely, tenures of land exempt from the public assessment, either for life or in perpetuity, as well as of confirming such tenures excepting by a regular judgment passed after a judicial inquiry, belongs, and always has belonged, exclusively to the Supreme Government; and no act, order or deci-

Lakhiraj
tenures under
what circum-
stances alone
valid.

[1] Portion repealed by the Repealing and Amending Act, 1903 (1 of 1903), is omitted.

[2] The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed *ante*, p. 518.

[3] The words "on special grounds only", which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

[4] The words "the above restriction should not apply to", which were repealed by the same Act, are omitted.

[5] As to the exercise of functions of the Board of Revenue by other authorities, see the references cited in the footnote on p. 75 of Vol. I.

[6] The words "but that such cases," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

[7] The Bengal Revenue-free Lands (Non-Badshahi Grants) Regulation, 1793. It is printed *ante*, p. 438.

[8] The Bengal Revenue-free Lands (Badshahi Grants), Regulation, 1793. It is printed *ante*, p. 435.

[9] The words and figures "Regulations 41 and 43, 1795, Regulations 31 and 36, 1803," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

[10] The word "Regulation" was substituted for the words and figures "Regulations 3 and" by the same Act.

[11] The Cuttack Land-revenue Regulation, 1805. It is printed *ante*,

of 1825.]

LANDS REGULATION, 1825.

(Sec. 3.)

sion granting or confirming any tenure as aforesaid within any of the territories subordinate to this Presidency, after the annexation of such territories to the British dominions, shall be held valid, unless the same shall have been done, issued or passed by or under the immediate directions of the [1] [Governor General in Council] or by some officer expressly authorized by Government to grant or confirm such tenures, or with respect to the confirmation of grants duly authorized by some competent Court of Judicature in a suit regularly tried and decided by it, or by one of the Revenue Boards acting in a judicial capacity, under the rules of Regulation 8, 1811, whilst that Regulation (rescinded by section 2 of Regulation 2, 1819, [2]) was in force; and subsequently under the rules of Regulation 2, 1819, [2] or any other Regulation expressly empowering the Revenue Boards, after full investigation of claims to exemption from assessment under the general rules applicable to lakhiraj tenures, to pronounce a decision against the assessment, to be considered final, except on proof, in a Court of Judicature, of fraud or collusion in the previous inquiry :

Provided also that no resolution or order passed by * * * [3] the Board of Revenue or other [4] authority exercising the powers of that Board, whereby the right of Government to assess any lakhiraj lands may have been relinquished or postponed, save and except decisions regularly passed according to the rules above cited, shall operate to the prejudice of Government, or be held to bar the Revenue-authorities from proceeding for the recovery of public dues under the provisions of Regulation 2, 1819, [2] or any other rules in force relative to the resumption of lakhiraj tenures held under invalid grants.

3. *First.*—The following principles are to be observed in determining the force and validity of grants made by persons exercising authority in the Provinces subordinate to this Presidency, previously to the acquisition of the country by the British Government.

Trial of validity of grants.

Second.—Lakhiraj tenures of which uninterrupted possession shall have

Lakhiraj tenures, of

[1] The words "Governor General in Council" are to read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. 2, in Vol. I, p. 45.

[2] The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed ante, p. 518.

[3] The words "the Lieutenant-Governor and the Board of Commissioners, in the Ceded and Conquered Provinces," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

[4] As to the exercise of functions of the Board of Revenue by other authorities, see the references cited in the footnote on p. 75 of Vol. I.

(Sec. 3.)

which unin-
interrupted
possession has
been held,
declared valid,
to.

been held exempt from assessment at and subsequently to the periods under-mentioned shall be, and be considered to be, valid, without evidence to any formal grant or confirmation of the same, and shall be continued to heirs in cases in which it may be clearly shown, from the nature and denomination of the tenure, that it is hereditary according to the ancient usage of the country, namely, the 12th August, 1765, if the tenure be in Bengal, Bihar or Orissa (excepting Cuttack); the 14th October, 1719, if the tenure be in Cuttack, including Pataspur or its dependencies; * * * * [1]:

Provided, however, that the above rule shall not apply to cases of derivative tenures, wherein it may appear that the tenure is derived from a jagirdar or other person, who, at any of the periods above specified, held lands free of assessment under a temporary or conditional tenure.

In all such cases the parcels of the land so held shall follow the condition of the principal tenure, and, if that be resumable, will consequently be liable to resumption.

Proof of title
to hold or re-
cover lakhiraj
tenure to rest
on claimants.

Third.—The proof of possession in the cases provided for by the preceding clause, and (in the case of persons not the original grantees) of the hereditary nature of the tenure, shall be on the parties claiming to hold or recover the lakhiraj tenure; the general principle being that the ruling Power is entitled to a certain proportion of the produce of every bigha of land, excepting so far as it shall have transferred, relinquished or compounded its right thereto; and all parties claiming the benefit of such exemptions being bound to establish their respective claims and titles:

One or more
successions
before periods
specified not
to establish
title of in-
heritance.

Fourth.—Provided also that, although one or more successions to any tenure as aforesaid may have taken place before the periods specified in the second clause, the fact shall not be taken to establish a title of inheritance, unless the tenure be clearly of an hereditary nature, or unless the right of inheritance therein shall have been admitted by the [2] [Governor General in Council] on a reference made to Government according to the rules in force applicable to such cases.

Potentates
and authori-
ties recogniz-
able by
Courts, &c.

Fifth.—The Courts of Judicature and Revenue-authorities shall not recognise any potentate or person as having been vested with the supreme power within any part of the Provinces subordinate to this Presidency, save and except the Kings of Delhi, the Subadars of Bengal, Bihar and Orissa, and

[1] Portion repealed by the Repealing and Amending Act, 1903 (1 of 1903), is omitted.

[2] The words "Governor General in Council" are to be read as if the words "Local Government" were substituted therefor—the Repealing and Amending Act, 1903 (1 of 1903), Sch. 2, in Vol. I, p. 45.

of 1825.]

LANDS REGULATION, 1825.

(Sec. 3.)

the several authorities specified in * * * [1] [2] [Regulation]
12, 1805, [3] * * * [4].

If in any case grants shall be produced purporting to have been made or confirmed by any other person than as aforesaid, alleged to have been vested with the supreme power for the time being, and it shall appear to the Court or other authority investigating the same that the plea is well founded, the Court or other authority before whom the case may be pending shall, before passing any decision thereupon, refer the point to the [5] [Governor General in Council] and be guided by [6] [his] determination.

Sixth.—To the validity of grants made or confirmed by the Kings of Delhi or by any of the Rulers aforesaid, it is and shall be held to be necessary—

Conditions requisite to establish validity of grants by such potentates, etc.

1st, that they were made or confirmed within the period during which the person granting or confirming the same possessed and exercised supreme power within the territory in which the lands specified in the grant are situate :

2nd, that the grantee actually and *bond fide* obtained possession of the land granted within the said period :

3rd, that the grant was not subsequently resumed by the officers or the orders of the Government for the time being previously to the acquisition of the country by the British Government, or, if so resumed, that the competence of the officer to resume shall have been expressly disallowed by the [5] [Governor General in Council].

Seventh.—The following shall be held, for the purposes specified in this Regulation, to be the periods at which the several Provinces subordinate to this Presidency were acquired by the British Government, namely, for Bengal, Bihar and Orissa (excepting Cuttack), the 12th August, 1765 ; * * * [7] for the Province of Cuttack, Pataspur and its dependencies, the 14th October, 1808 * * * [7].

Periods at which provinces subordinate to Presidency of Fort William were acquired by British Government.

[1] The words and figures " Regulation 42, 1794, Regulation 36, 1803, and ", which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

[2] The word "Regulation" was substituted for the words and figures "Regulations 8 and" by the Repealing and Amending Act, 1903 (1 of 1903).

[3] The Cuttack Land-revenue Regulation, 1805. It is printed *ante*, p. 502.

[4] Portion repealed by the Repealing and Amending Act, 1903 (1 of 1903), is omitted.

[5] The words "Governor General in Council" in s. 3 (5) and (6) are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. 2, in Vol. I, p. 45.

[6] The word "his" in s. 3 (5) is to be read as if the word "its" were substituted therefor—see *ib.*

[7] Portion repealed by the Repealing and Amending Act, 1903 (1 of 1903), is omitted.

THE BENGAL REVENUE-FREE LANDS REGULATION, [Reg. 14 of 1825.]
1825.

(Secs. 4-6.)

Conditions
necessary to
validity of
grants not
made or
confirmed by
Supreme
Power.

Eighth.—To the validity of grants not made or confirmed by the Supreme Power (excepting tenures of long possession described in the second clause of this section), it shall be held to be necessary—

1st, that they were made or confirmed by some authority which the [1] [Governor General in Council] shall have expressly declared competent to make or confirm the same;

2nd, that the grantee actually and *bond fide* obtained possession of the land granted, and that the revenue of the land was not subsequently resumed by competent authority.

Decision of
questions
regarding
lakhiraj
tenures,
resumed
previously to
acquisition of
country by
Government.

Ninth.—Provided also that in cases in which any lakhiraj tenure may have been resumed previously to the acquisition of the country by the British Government, the determination of the question whether the officer by whom or by whose order the resumption may have been made was legally competent to do so shall, in all cases wherein it may be necessary to determine this question, rest with the [1] [Governor General in Council.]

Moreover, all questions touching the validity of grants made or confirmed by any officer subordinate to the Supreme Power, or the legal effect of resumption by any such officer which may not have been expressly provided for by the Regulations, and which may be material to the decision of any suit or inquiry, shall be referred by the Courts of Judicature or other authorities making the investigation to the [1] [Governor General in Council] for determination unless the powers and competence of the officer in question shall have been previously determined by Government.

Saving of
lands
devoted to
religious or
charitable
uses.

4. Nothing in this Regulation shall be construed to affect the provisions contained in Regulation 19, 1793, [2] * * * [3] and Regulation 12, 1805, [4] relative to lands not exceeding ten bighas of which the produce is *bond fide* appropriated to religious or charitable uses.

5. [Revision of decisions passed before commencement of Regulation.] *Rep. by the Repealing Act, 1873 (12 of 1873).*

Modification
of Regulation
2, 1819,
section 26.

6. In modification of the rules contained in section 26, Regulation 2, 1819, [5] it is hereby enacted that in cases wherein a Zila Court shall annul or alter

[1] The words "Governor General in Council" in section 3 (8) and (9) are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. 2, in Vol. I, p. 45.

[2] The Bengal Revenue-free Lands (Non-Badahahi Grants) Regulation, 1793. It is printed *ante*, p. 468.

[3] The words and figures "Regulation 41, 1795, Regulation 31, 1803," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

[4] The Cuttack Land-revenue Regulation, 1805. It is printed *ante*, p. 502.

[5] The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed *ante*, p. 518.

[Reg. 3 of 1828.] THE BENGAL LAND-REVENUE ASSESSMENT (RESUMED LANDS) REGULATION, 1828.

a judgment passed by the Board of Revenue or other [1] authority exercising the powers of that Board, under the provisions of the above-mentioned Regulation, a regular appeal shall lie * * * [2].

The provisions of the above-mentioned section shall however still be applicable to cases in which the Zila * * [3] Courts may maintain the decisions of the [4] [Board of Revenue] or other authorities exercising the powers of [4] [that Board.]

**THE BENGAL LAND-REVENUE ASSESSMENT
(RESUMED LANDS) REGULATION, 1828**

(REGULATION 3 OF 1828).

CONTENTS. [5]

SECTION.

1. Preamble.
- 2 to 9. [*Repealed*].
10. *First*.—Regulation 2, 1819, modified and extended.
Second.—Decisions of Board of Revenue under section 21 of Regulation 2, 1819, to be executed notwithstanding suit to contest them.
 Consequence of declining to pay assessment.
Third.—Trial of suits to contest Board's decision in cases in which jurisdiction of Courts is not barred.
Fourth.—Proviso as to admission of appeals from inferior to superior Courts.
Fifth.—Appeals from Board's decisions to be kept distinct.
11. *First*.—[*Repealed*].
Second.—Persons succeeding to possession of lands revenue-free or on mukarrari jama, to report to Collector.
Third.—Investigation of claims to recover possession of attached lands.
12. Unregistered tenures liable to resumption, unless declared hereditary by decree of competent authority.

[1] As to the exercise of functions of the Board of Revenue by other authorities, see the references cited in the foot-note on p. 75 of Vol. I.

[2] Portion repealed by the Repealing Act, 1874 (16 of 1874), is omitted.

[3] The words "or Provincial.", which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[4] The words "Board of Revenue" and "that Board", in s. 6, were substituted for the words "Revenue Boards" and "these Boards," respectively, by the Repealing and Amending Act, 1903, (1 of 1903), Sch. 2, printed in Vol. I, p. 45.

For saving of appeals under s. 6, see the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1828 (3 of 1828), s. 10 (4), *post*, p. 598.

[5] This table has been newly added.

THE BENGAL LAND-REVENUE ASSESSMENT

[Reg. 3]

(Preamble.)

SECTION.

13. *First*.—Sundarbans declared property of State, and Government competent to make grants and to take measures for its clearance.

Grantee's right.

Suit to contest such right.

Compensation to zamindar claiming valuable interest.

Second.—[*Repealed*.]

THE BENGAL LAND-REVENUE ASSESSMENT
(RESUMED LANDS) REGULATION, 1828 ^[1]

(REGULATION 3 OF 1828).

[12th June, 1828.]

A Regulation for * * * [2] more effectually securing the realization of the public dues.

Preamble.

1. * * * [3] it appears to be expedient * * * [3] to provide that all successions to the possession of land or rent, free of assessment, whether by sale, gift or inheritance, shall be regularly reported to the Revenue authorities.

It has likewise appeared to be expedient and proper to make provision for the immediate settlement of the limits of the Sundarbans, as ascertained by careful local inquiry, conducted by the Commissioner specially appointed to

[1] **SHORT TITLE**.—This short title was given by the Repealing and Amending Act, 1903, (1 of 1903), printed in Vol. I, p. 18.

LOCAL EXTENT.—This Regulation was passed for the whole of Bengal—see the end of s. 1.

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), section 6 (printed, General Acts, 1868-76, Ed. 1898, p. 484), to be in force throughout Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), section 3, to be in force in the following Scheduled District, namely:—

West Jalpaiguri, in the Jalpaiguri District, see Vol. V, Part V, B(d).

The application of the Regulation in the de-regulationised tracts in Bengal is barred as follows, namely:—

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), section 3 (2), printed in Vol. I, p. 257;

~~in the Chittagong Hill tracts, by the Chittagong Hill tracts Regulation, 1900 (1 of 1900), section 4 (2), printed in Vol. I, p. 232; and~~

in the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation (3 of 1872), section 3 (2), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899, (3 of 1899), section 3, printed in Vol. I, p. 294.

[2] Words in the title which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

[3] Portions of s. 1 which were repealed by the same Act are omitted.

of 1828.]

(RESUMED LANDS) REGULATION, 1828.

(Sec. 10.)

the duty, and the surveyors under his authority ; and also to declare the intent and meaning of certain parts of the existing Regulations in regard to which doubts have arisen.

The following rules have accordingly been enacted, to be in force from the date of their promulgation throughout the Provinces immediately subordinate to the Presidency of Fort William.

2 to 8. [*Special Commissioners for final determination of cases investigated under the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819 (2 of 1819), ss. 5 to 20, and the Bengal Land-revenue Settlement Regulation 1825 (9 of 1825), s. 5, and for determination of suits brought to contest the demand of Revenue-officers.*] Rep. by the Repealing and Amending Act, 1903 (1 of 1903).

9. [*Oaths to be taken by special Commissioners.*] Rep. by the Repealing Act, 1873 (12 of 1873).

10. *First.*—The following rules are hereby enacted in modification and extension of the provisions contained in sections 22, 23, 24, Regulation 2, 1819.^[1]

Regulation 2, 1819, modified and extended.

Second.—All decisions which have been or may be passed by the [2] [Board] of Revenue^[3] under the rules in section 21, Regulation 2, 1819,^[1] declaring the liability to assessment of lands * * * [4] shall be carried into immediate execution by the Collectors' or other local Revenue-officers of such district, notwithstanding that the parties against whom such decisions may have been or may be passed shall have sued or shall sue to contest the Board's decision in one of the established Courts of Justice * * * [5] ; and such parties shall not be permitted to retain possession of the lands unless they enter into an engagement to pay the assessment which may be fixed upon them ; such assessment to be collected under the general rules for the realization of the Government revenue from farmers thereof.

Decisions of Boards of Revenue under section 21 of Regulation 2, 1819, to be executed notwithstanding suit to contest them.

And if any person against whom the Board may have decided shall decline to pay the assessment fixed on the lands, he shall be forthwith dispossessed,

Consequence of declining

[1] The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed *ante*, p. 518.

[2] The word "Board" was substituted for " " by the Repealing and Amending Act, 1903 (1 of 1903), Sch. 2, in Vol. I, p. 46.

[3] As to the exercise of functions of the Board Revenue by other authorities, see the references cited in the footnote on p. 75 of Vol. I.

[4] The words "whether the same be situated in districts to which the jurisdiction of a special Commissioner has been extended or in any other district," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

[5] The words "or to the Commissioner appointed under this Regulation," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

THE BENGAL LAND-REVENUE ASSESSMENT

[Reg. 3

(Sec. 10.)

to pay assess-
ment.

and such arrangements shall be made for the collection of the Government revenue as the Collector, [1] under the orders of the Board, may see fit to adopt: but in the event of a final decision being passed, exempting the tenure of any such person from assessment, the net collections made on account of Government shall be refunded, with interest thereon at the rate of six *per cent. per annum*.

Trial of suits
to contest
Board's deci-
sion in cases
in which
jurisdiction
of Courts is
not barred.

Third.—All suits which may be instituted in the established Courts of Justice under the provisions of sections 22 and 24, Regulation 2, 1819, [2] and section 5, Regulation 9, 1825, [3] to contest decisions of the [4] [Board] of Revenue [5], shall, when the jurisdiction of the above Courts is not barred by the operation of this Regulation, be heard and determined in the same manner as regular appeals, and no further pleadings shall be required or received in such cases than the objections of the appellant to the decision of the Board, and the reply to those objections on the part of the Revenue-authorities ;

the said Courts shall likewise, on the admission of an appeal, invariably call for the original record of the Board's proceedings in each case, and shall then require the parties to file their pleadings as above provided ; but it shall not be competent to the Courts to take further evidence, oral or documentary, unless it shall appear that such evidence was tendered by the party adducing it to the Collector or the Board, and was then rejected on insufficient grounds or that such evidence is essential to the ascertainment of some fact material to the issue, which may not have been fully inquired into in the course of the previous investigation.

Proviso as to
admission of
appeals from
inferior to
superior
Courts.

Fourth.— Provided, however, and it is hereby enacted, that nothing contained in the preceding clause shall be construed to bar the admission of a further appeal on the part of the Revenue-authorities to * * * [6] the Court of Sadar Diwani Adalat, from decisions passed in the first instance in the Zila * * [7] Courts * [8] in cases of the nature described and specially

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *ante*, p. 573.

[2] The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed *ante*, p. 518.

[3] The Bengal Land-revenue Settlement Regulation, 1825. It is printed *ante*, p. 576.

[4] The word "Board" was substituted for "Boards" by the Repealing and Amending Act, 1903 (1 of 1903), Sch. 2, printed in Vol. I, p. 46.

[5] As to the exercise of functions of the Board of Revenue by other authorities, see the references cited in the footnote, in Vol. I, p. 75.

[6] The words "the Provincial Courts or," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[7] The words "or the Provincial," which were repealed by the same Act, are omitted.

[8] The word "respectively," which was repealed by the same Act, is omitted.

of 1828.]

(RESUMED LANDS) REGULATION, 1828.

(Sec. 11.)

provided for in section 6, Regulation 14, 1825, [1] nor the admission by those tribunals of the special appeal on the application of the party opposed to Government under the rules in section 26, Regulation 2, 1819. [2]

Fifth.—Appeals filed in the established Courts of Civil Judicature to contest decisions of the Board of Revenue [3] shall be kept on a file or register distinct from that on which other suits before those Courts are entered * * * [4].

Appeals from Board's decisions to be kept distinct.

11. *First.* [*Provisions for securing information of transfers of land held free of assessment.*] *Rep. by the Repealing Act, 1874 (16 of 1874).*

Second.—Persons succeeding to the possession of any lands held free of assessment or held on a mukarrari jama, on the decease of a former occupant, or by gift, purchase or other assignment or transfer of proprietary right, are hereby required immediately to notify the same to the Collector or other [5] officer exercising the powers of Collector within the district in which the land may be situated, and any omission to notify such succession or transfer for a period of six months or more shall subject such land to immediate attachment by the Revenue-officers.

Persons succeeding to possession of lands revenue-free or on mukarrari jama to report to Collector.

Nor shall land so attached be restored to the party who may claim to hold it, though the validity of the tenure be subsequently established to the satisfaction of the Revenue-authorities, until such party shall have paid to Government a fine equal to one year's rent; and, if the revenue derivable from the land be not awarded to be the right of the individual, the party shall further be required to refund the amount of the collections made by him, with interest thereon at the rate of twelve *per cent. per annum*: provided also that the said rent and collections shall be estimated according to the assessment demandable from the raiyats at the time of attachment.

Third.—Where the lands of any individual may be attached under the above rule, any claim which he may prefer to recover possession thereof, and to hold the same free of assessment or on a mukarrari jama, shall be investigated and determined by the Collector [5] under the provisions of Regulation 2, 1819 [2], as modified by the present Regulation and by those which have been intermediately enacted.

Investigation of claims to recover possession of attached lands.

[1] The Bengal Revenue-free Lands Regulation, 1825. It is printed *ante*, p. 589.

[2] The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed *ante*, p. 518.

[3] As to the exercise of functions of the Board of Revenue by other authorities, see the references cited in the footnote on p. 75 of Vol. I.

[4] The remainder of s. 10 (5), which was repealed by the Repealing Act, 1874 (16 of 1874), is omitted.

[5] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *ante*, p. 578.

(Secs. 12, 13.)

Unregistered
tenures liable
to resumption,
unless
declared
hereditary by
decree of
competent
authority.

12. All tenures which may not have been duly registered in the manner prescribed by the Regulations, or of which the specification contained in the register shall not purport the same to be held under an hereditary title or as a perpetual endowment, shall be and be held to have been liable to resumption, unless the same may have been declared hereditary by a final decree of a competent Court of Judicature, on the demise of the persons who were in possession at the dates respectively of Regulations 19 [1] and 37, [2] 1793, * * * [3] and 12, 1805, according as the lands may be within the districts to which those Regulations are severally applicable, or in other parts of the country at the date at which the same came into the possession of the British Government.

And Collectors and other [4] officers exercising the powers of Collector shall accordingly proceed to assess, and, if necessary, attach all lands liable to resumption as above, in the same manner and with the same powers as they are authorized and required to proceed in the case of a lapsed farm, anything in the existing Regulations to the contrary notwithstanding :

Provided further that the nature and extent of the interests vested in the holders of lands and rents exempted from assessment shall, when the title-deeds are forthcoming, and their authenticity recognized, be construed and defined with reference to the whole of the matter contained in such deeds, and not merely by the designation of the tenure. Jagirs consequently shall not be held to be life-tenures in cases in which the recital of the grant shall be such as clearly to convey an hereditary interest : nor shall any tenures, howsoever designated, be considered to be hereditary and perpetual if the grants under which they are held shall not convey, in express terms, an hereditary or perpetual interest.

Sundarbans
declared pro-
perty of State,
and Govern-
ment com-
petent to
make grants

13. *First.*—The uninhabited tract known by the name of the Sundarbans has ever been, and is hereby declared still to be, the property of the State : the same not having been alienated or assigned to zamindars, or included in any way in the arrangements of the perpetual settlement, it shall therefore

[1] The Bengal Revenue-free Lands (Non-Badshahi Grants) Regulation, 1793. It is printed *ante*, p. 468.

[2] The Bengal Revenue-free Lands (Badshahi Grants) Regulation, 1793. It is printed *ante*, p. 485.

[3] The words and figures " Regulations 41 and 42, 1795, Regulations 41 and 36, 1803, Regulations 8," which were repealed by the Repealing and Amending Act, 1901 (1 of 1903), are omitted.

[4] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *ante*, p. 573.

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of 1828.]

(RESUMED LANDS) REGULATION, 1828.

(Sec. 13.)

be competent to the [1] [Governor General in Council] to make, as heretofore, grants, assignments and leases of any part of the said Sundarbans, and to take such measures for the clearance and cultivation of the tract as [1] [he] may deem proper and expedient. and to take measures for its clearance.

All parties to whom such grants, leases or assignments shall have been made, or to whom they may hereafter be made, shall be entitled to hold or to take possession of any tract of Sundarban jungle so granted or assigned without question or opposition, and all public officers shall aid and assist the same: Grantees' right.

Provided also that if any zamindar, talukdar or other sadar malguzar or any other person owning and occupying or collecting the rent or revenue of cultivated land in the neighbourhood of the land so granted, leased or assigned shall sue in any Court of Adalat * * * [2] to contest the validity of the title or the right of possession of any such lessee or grantee under such grant, lease or assignment, then if the land aforesaid shall be proved to be, or to have been, or be not denied to be or to have been, when so granted, leased or assigned, within the limit of the unoccupied jungle so named and described, the suit shall be dismissed with costs: Suit to contest such right.

Provided, however, that if any zamindar, talukdar or other person aforesaid shall claim to possess a valuable interest in any part of the Sundarbans, by virtue of authority to collect money or other valuable thing from the persons engaged in gathering wax, or cutting wood or obtaining other jungle products of the tract, or by virtue of any other similar privilege or advantage which may have been recognised as part of the assets on which the assessed revenue of his zamindari, talukdari or other tenure was adjusted at the time of farming the perpetual settlement of the district, and the collection of which was not subsequently stopped and due compensation made under the rules relative to the collection of said revenue or other similar arrangement, such zamindar, talukdar or proprietor shall be entitled to receive from Government compensation for any diminution in the value of such interest and advantage consequent on the arrangements adopted for the cultivation of the Sundarbans; the same being duly established after an investigation conducted under the rules of Regulation 2, 1819, [3] as modified by this Regulation. Compensation to zamindar claiming valuable interest.

[1] The words "Governor General in Council" and "he" are to be read as if the words "Local Government" and "it," respectively, were substituted therefor—see the Repealing and Amending Act, 1908 (1 of 1908), Sch. 2, in Vol. I, p. 46.

[2] The words "or before a special Commissioner under this Regulation," which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

[3] The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed ante, p. 618.

THE BENGAL LAND-REVENUE ASSESSMENT (RESUMED [Reg. 3 of 1828.]
LANDS) REGULATION, 1828.

(Sec. 13.)

*Second.—[Demarcation of boundaries of the Sundarban jungle]. Rep.
by the Sundarbans Act, 1905 (Ben. Act 1 of 1905).*

— /

[Reg. 4 of 1828.] THE BENGAL LAND-REVENUE SETTLEMENT REGULATION, 1828.

THE BENGAL LAND-REVENUE SETTLEMENT REGULATION, 1828 [1]

(REGULATION 4 OF 1828).

[7th August, 1828.]

[2] A Regulation to declare and extend the powers to be exercised by Collectors when making or revising settlements under the provisions of Regulation 7, 1822. [3]

1. [Preamble.] *Rep. by the Repealing and Amending Act, 1903 (1 of 1903).*

2. *First, Second, Third.*—[Collectors making or revising settlements empowered to try all questions of property in or possession of lands.] *Rep. by the Bengal Land-revenue (Settlement and Deputy Collectors) Regulation, 1833 (9 of 1833), s. 4.*

Fourth.—To prevent doubts as to the period for which Collectors and other officers [4] [vested with the powers of a Collector] are to possess the powers vested in them * * * [5] by Regulation 7, 1822, [3] in regard to any mahals of which the settlement may have been, or may be about to be made or revised, it is hereby declared and enacted that they shall be held and

Period during which Collectors are to be considered to be engaged in making and revising settlements.

[1] **SHORT TITLE.**—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), printed in Vol. I, p. 18.

LOCAL EXTENT.—S. 2 (4) of this Regulation has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), section 6 (printed, General Acts, 1868-76, Ed. 1898, p. 484), to be in force throughout Bengal, except as regards the Scheduled Districts.

S. 2 (4) has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), section 3, to be in force in the following Scheduled Districts, namely:—

~~West Jalpaiguri in the Jalpaiguri District—see Vol. V, Part V, B(a);~~
the Western Hills and the Tarai, in the Darjeeling District—see *ib.*; and
the Hazaribagh, Ranchi, Palamu and Manbhum Districts, and Pargana Dhalbhum in the Singhbhum District, in the Chota Nagpur Division—see *ib.*, Part V, B(b).

vol. 2, p. 13 (a)

The application of the Regulation in the de-regulationised tracts in Bengal is barred as follows, namely:—

in the Angul District, by the Angul District Regulation, 1824 (1 of 1824), section 3 (2), printed in Vol. I, p. 257;

~~in the Chittagong Hill Tracts, by the Chittagong Hill Tracts Regulation, 1800 (1 of 1800), section 4 (2), (printed in Vol. I, p. 202); and~~

in the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation (3 of 1872), section 3 (2), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), section 3, printed in Vol. I, p. 294.

[2] This title is obsolete, in consequence of the repeal of clause first of section 2 of the Regulation.

[3] The Bengal Land-revenue Settlement Regulation, 1822. It is printed *ante*, p. 529.

[4] These words in square brackets were substituted for the word "aforesaid" by the Repealing and Amending Act, 1903 (1 of 1903), Sch. 2, in Vol. I, p. 46.

[5] The words "by this Regulation and," which were repealed by the same Act, are omitted.

THE BENGAL LAND-REVENUE SETTLEMENT REGU- [Reg. 4 of 1828.]
LATION, 1828.

(Sec. 1.)

considered to be engaged in making and revising such settlement from the date on which they have issued or may issue orders for adjusting the boundaries, for measuring any of the lands or for making a census of the inhabitants of any village or portion of a village belonging to such mahal, of which intimation shall be given to the Magistrate or Joint Magistrate within whose division the village shall be situated, up to the day on which they may be informed that the settlement, as made and revised by them, has been finally confirmed by Government.

During the aforesaid period * * * [1] Magistrates and Joint Magistrates * * * [2] shall be guided, in respect to such mahals, by the provisions of clause *second*, section 34, Regulation 7, 1822, [3] by which they were required to refer to the Revenue-authorities disputes regarding lands, premises, crops, watercourses and the like.

And all police-officers are required to give immediate and efficient support to Collectors and other Revenue-officers in the execution of their duties.

[1] The words "the powers vested in," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[2] The words and figures "by Regulation 15, 1824, shall be suspended in regard to all mahals of which the settlement may be so in progress, and the said officers", which were repealed by the same Act, are omitted.

[3] The Bengal Land-revenue Settlement Regulation, 1822. It is printed *ante*, p. 539.

[Reg. 9 of 1833.] THE BENGAL LAND-REVENUE (SETTLEMENT AND DEPUTY COLLECTORS) REGULATION, 1833.

THE BENGAL LAND-REVENUE (SETTLEMENT AND DEPUTY COLLECTORS) REGULATION, 1833 [1]
(REGULATION 9 OF 1833).

[9th September, 1833.]

A Regulation to modify certain portions of Regulation 7 of 1822 [2] * * * [3]; to provide for the more speedy and satisfactory decision of judicial questions cognizable by officers of revenue employed in making settlements under the above [4] [Regulation]; for enforcing the production of the village-accounts; for the more extensive employment of native agency in the Revenue Department; and to declare the intent of section 5, Regulation 7 of 1822, [2] touching claims to malikana.

1. EXPERIENCE having demonstrated the expediency of modifying certain enactments of Regulation 7 of 1822 [2] * * * [3], also of providing a more speedy and satisfactory mode of deciding such judicial questions as may be cognizable by officers of the Revenue Department under [5] [that Regulation] and of declaring the intent of the rules regarding malikana promulgated by section 5, Regulation 7 of 1822 [2]; it having been found

[1] SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), printed in Vol. I, p. 18.

LOCAL EXTENT.—This Regulation has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), section 3, to be in force in the following Scheduled Districts, namely:—

the Hazaribagh, Ranchi, Palamau and Manbhum Districts, and Pargana Dhalbhum in the Singhbhum District, in the Chota Nagpur Division—see Vol. V, Part V, B(b).

The application of the Regulation in the de-regulated tracts in Bengal is barred as follows, namely:—

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), section 3 (2), printed in Vol. I, p. 257;

~~in the Chittagong Hill tracts, by the Chittagong Hill tracts Regulation, 1899 (1 of 1899), section 4 (2), printed in Vol. I, p. 285, and~~

in the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation (3 of 1872), section 3 (2), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), section 3, printed in Vol. I, p. 234.

[2] The Bengal Land-revenue Settlement Regulation, 1822. It is printed *as is*, p. 539.

[3] The words and figures "and Regulation 4 of 1828", in the title and s. 1, which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

[4] The word "Regulation", in the title, was substituted for the word "Regulations" by the same Act, Sch. 2, in Vol. I, p. 46.

[5] The words "that Regulation", in s. 1, were substituted for the words "those Regulations" by the same Act.

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THE BENGAL LAND-REVENUE
(Secs. 5-7.)

[Reg. 9]

expedient likewise that measures should be adopted for enforcing the production of the village-accounts, and for rendering them accessible to all persons concerned having occasion to examine them ; also that natives of respectability should be employed in more important trusts connected with the revenue-administration ; the following provisions have been enacted, to be in force from the date of their promulgation.

2. [*Repeal of provisions of Regulation 7, 1822, as to mode of determining jama to be demanded from mahal.*] *Rep. by the Repealing and Amending Act, 1903 (1 of 1903).*

3. [*Repeal of provisions of Regulation 7 of 1822 as to investigation of claims simultaneously with determination of Government demand.*] *Rep. by the Repealing and Amending Act, 1903 (1 of 1903).*

The Governor General in Council will hereafter determine the order in which the above matters shall be respectively disposed of.

4. [*Repeal of parts of the Bengal Land-revenue Settlement Regulation, 1828 (4 of 1828).*] *Rep. by the Repealing Act, 1874 (16 of 1874).*

When Collector or making settlements considers arbitration necessary, he may fix period for production of award.

5. In addition to section 33, Regulation 7 of 1822, [1] it is hereby enacted that whenever any judicial question may be depending before a Collector or other [2] officer employed in making settlements under the provisions of Regulation 7 of 1822 [1], in which the interests of justice may, in the opinion of such officer, require that the case be decided by arbitration, it shall be lawful for him to fix, under the instructions with which he may be furnished by the superior Revenue-authorities, a period within which the parties must produce the award.

When Collector may summon panchayat.

6. In that case, if the parties shall refuse or neglect to produce such award within the term limited, it shall be lawful for the Collector or other [2] officer to summon a panchayat, to be composed of three or five impartial and otherwise competent persons of good repute for the trial of the matter at issue.

Procedure of panchayat.

7. After duly considering the statements and evidence offered by the parties, or, in case of the default or recusance of either, the statements and evidence produced by the party in attendance, the panchayat shall declare their opinions, and judgment shall be recorded according to the sentence of the majority.

The superior Revenue-authorities will from time to time issue such rules

[1] The Bengal Land-revenue Settlement Regulation, 1822. It is printed *ante*, p. 539.

[2] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *ante*, p. 578.

of 1833.] (SETTLEMENT AND DEPUTY COLLECTORS) REGULATION, 1833.

(Secs. 8-16.)

of practice for the guidance of the officers employed on this duty, or the panchayats, as they may consider necessary.

8. No appeal shall be allowed from such decisions, which shall be immediately executed and maintained, unless the Commissioner, subject to the control of the ** [1] Board of Revenue, [2] should think proper, for any special reason, to direct that the case shall be submitted to another panchayat for decision.

Bar of appeal: submission to second panchayat.

9. Any suit brought before any Court of Justice to set aside a decision made in conformity with the above rules shall be non-suited with costs.

Non-suit of suit to set aside decisions also suits against arbitrators.

10. In like manner any suit brought before any Court of Justice against the arbitrators, collectively or individually, appointed in conformity with the rules prescribed, to recover from them the value of the property lost by the decision founded on their award, shall be non-suited with costs.

11. It is hereby declared that the rules concerning malikana contained in section 5, Regulation 7 of 1822, [3] were intended to have a prospective effect only, and to be applicable solely to settlements made under that Regulation, and to recusance tendered at the completion of such settlements.

Intention of rules as to malikana in section 5, Regulation 7, 1822.

12. It is further enacted that the village-accounts which are required to be kept in such manner and form as has heretofore been the custom, or in such other mode as may hereafter be prescribed by the [4] [Board] of Revenue, shall be prepared in duplicate sets—one for deposit in the office of patwari, and one for deposit in the office of Collector of the district in which the respective estates or tenures may be situated, and, wherever the office of a kanungo may be established, a third copy shall be prepared and deposited in that office.

Village-accounts.

13. The several accounts required for deposit in the pargana and Zila revenue-offices, as above stated, instead of being delivered at the expiration of every six months, as prescribed by the rules at present in force, shall be furnished in such mode and at such periods as the [4] [Board] may direct.

Accounts to be furnished according to directions of Board.

They shall be open to the inspection of every person concerned desirous of examining them.

14, 15. *[Penalties to landholders for not conforming to rules regarding village-accounts.] Rep. by the Bengal Rent Act, 1859 (10 of 1859).*

16. It shall be competent to the [5] Governor General [in Council] to

Appointment

[1] The word "Sadar," in s. 8, which was repealed by the Repealing and Amending Act, 1903 (1 of 1903), is omitted.

[2] As to the exercise of functions of the Board of Revenue by other authorities, see the references in the footnote on p. 75 of Vol. I.

[3] The Bengal Land-revenue Settlement Regulation, 1822. It is printed *ante*, p. 539.

[4] The word "Board", in ss. 12 and 13, was substituted for the word "Boards" by the Repealing and Amending Act, 1903 (1 of 1903), Sch. 2, printed in Vol. I, p. 46.

[5] The words "Governor General in Council", in s. 16 are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. 2, in Vol. I, p. 46.

THE BENGAL LAND-REVENUE (SETTLEMENT AND [Reg. 9 of 1833.]
DEPUTY COLLECTORS' REGULATION, 1833.

(Secs. 17-24.)

of Deputy
Collector.

appoint to any revenue-jurisdiction a Deputy Collector, [1] with the powers hereinafter specified.

Persons
eligible to
office, and
how ap-
pointed.

17. The office of Deputy Collector shall be open to Natives of India of any class or religious persuasion.

The persons selected shall be appointed by the Governor General in Council, and shall receive their commissions from Government in the usual mode, under the signature of the Secretary in the Revenue Department.

Monthly al-
lowance how
fixed, and
susceptible of
increase.

18. The Deputy Collectors will receive a monthly allowance, to be fixed by the Governor General in Council, and to be susceptible of increase, from time to time, as their conduct may appear to entitle them respectively to such consideration.

19. [*Solemn declaration to be made by Deputy Collectors.*] *Rep. by the Indian Oaths Act, 1873 (10 of 1873).*

Subordination
of Deputy
Collectors.

20. The Deputy Collectors appointed under this Regulation are to be in all respects subordinate to the Collector under whom they may be placed, and are required to perform all duties assigned to them by that functionary.

Duties in
which Collec-
tors may
employ them.

21. It will be at the discretion of the latter officer to employ them in settlement-duties under the provisions of Regulation 7, 1822, [2], in the superintendence of the Government *khass* mahals, and generally in the transaction of any other part of the duties of a Collector.

Their proceed-
ings how re-
corded and
how appeal-
able.

22. All proceedings held by a Deputy Collector appointed under this Regulation shall be recorded in his own name and on his own responsibility, subject to the revision and control of the Collector, and appealable to the superior authorities in the usual course.

Collector may
resume duties
committed to
Deputy.

23. Provided always that the Collector is competent to resume the duties which he may have committed to the Deputy, assigning his reasons for so doing for the information of the Commissioner.

Interference
by Commis-
sioners with
arrangements
of Collectors
for employ-
ment of
Deputies.

24. Provided also that the Revenue Commissioners, whenever they think proper, may interfere with any arrangements made by the Collectors for the employment of the Deputies, or the distribution of business to be assigned to those functionaries, subject to the general control vested in the * * [3] Board of Revenue [4] or the Government, as the case may be.

[1] For rules as to Deputy Collectors, see the Board's Rules, 1902, pp. 62 to 64; and for rules as to their establishments, see *ib.*, pp. 75, 76.

[2] The Bengal Land-revenue Settlement Regulation, 1822. It is printed *ante*, p. 539.

[3] The word "*Sadar*", in s. 24, which was repealed by the Repealing and Amending Act, 1903 (1 of 1903), is omitted.

[4] As to the exercise of functions of the Board of Revenue by other authorities, see the references cited in the footnote on p. 75 of Vol. I.

[Reg. 9 of 1833.] THE BENGAL LAND-REVENUE (SETTLEMENT AND DEPUTY COLLECTORS) REGULATION, 1833.

(Sec. 25.)

[Act 12 of 1841.] THE BENGAL LAND-REVENUE SALES ACT, 1841.

(Sec. 2.)

25. A Deputy appointed under this Regulation shall not be removeable but for misconduct, and with the sanction of the Governor General in Council.

Rules regarding dismissal of Deputy Collectors.

Whenever there may be reason to believe that a Deputy is disqualified by neglect, incapacity or corruption for continuance in office, a report shall be submitted by the local authorities, through the channel of the * [1] Board of Revenue, for the consideration of the Governor General in Council, who shall be competent to suspend him, and order a further inquiry into the conduct of such Deputy, or to direct his immediate dismissal, as may appear just and proper.

THE BENGAL LAND-REVENUE SALES ACT, 1841^[2]

(ACT 12 OF 1841).

[19th July, 1841.]

An Act for amending the Bengal Code in regard to sales of land for arrears of revenue.

1. [*Preamble and repeals.*] *Rep. by the Repealing Act, 1870 (14 of 1870).*

2. * * * [3] There shall be no demand of interest or penalty upon any arrear of land-revenue * * * [4].

Interest and penalty abolished;

3-35. [*Sale of land for arrears of revenue; local extent; commencement.*] *Rep. by Act 1 of 1845.*

[1] The word "Sadar", in s. 25, which was repealed by the Repealing and Amending Act, 1903 (1 of 1903), is omitted.

[2] SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), printed in Vol. I, p. 18.

LOCAL EXTENT.—S. 2 of this Act has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed, General Acts, 1868-76, Ed. 1898, p. 404), to be in force throughout Bengal, except as regards the Scheduled Districts.

The section has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the following Scheduled Districts, namely:—

~~West Jalpaiguri, in the Jalpaiguri District—see Vol. V, Part V, B (b); and the Hazaribagh, Ranchi, Palamau and Manbhum Districts, and Pargana Dhalbhum in the Singhbhum District, in the Chota Nagpur Division—see Part V, B (b).~~

The section is in force in the Sonthal Parganas—see Vol. V, Part VI, B (c); but its application in the other de-regulationised tracts in Bengal is barred as follows:—

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), s. 3 (2), printed in Vol. I, p. 257, and

~~in the Chittagong Hill tracts, by the Chittagong Hill tracts Regulation, 1900 (1 of 1900), s. 3 (2), printed in Vol. I, p. 262.~~

[3] Formal words which were repealed by the Repealing Act, 1874 (15 of 1874), are omitted.

[4] The words and figures "which shall fall due after the date specified in section 35 of this Act", which were repealed by the same Act, are omitted.

THE BENGAL LANDHOLDERS' ATTENDANCE ACT, 1848 [1]

(ACT 20 OF 1848).

[23rd September, 1848.]

An Act for better enforcing the attendance of proprietors and farmers of land before Collectors of land-revenue in the Lower Provinces of the Bengal Presidency.

Preamble.

WHEREAS, by sundry Regulations of the Bengal Code, provision is made for the imposition of a daily fine by the Board of Revenue or other authority exercising the powers of that Board on any proprietor or farmer of land, subject to the provisions contained in the said several Regulations, who, when duly summoned by the Collector or other officer exercising the powers of Collector, shall omit or refuse to attend, or to cause his officer or agent to attend, or to furnish the accounts or documents required, and shall not show sufficient cause for such omission; and it is further provided that the fine, when confirmed by Government, is to be levied by the same process as is prescribed for the recovery of arrears of revenue;

And whereas in many cases, by the delay thus occasioned, the whole burden of the penalty is greatly increased beyond what would be necessary if summary

[1] **SHORT TITLE**.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), printed in Vol. I, p. 18.

LOCAL EXTENT.—This Act has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed, General Acts, 1868-76, Ed. 1893, p. 484), to be in force throughout Bengal, except as regards the Scheduled Districts.

The Act has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the following Scheduled Districts, namely:—

~~West Jalpaiguri, in the Jalpaiguri District—see Vol. V, Part V, B (d), and~~
the Hazaribagh, Ranchi, Palamu and Manbhum Districts, and Pargana Dhalbhum and the Kolhan in the Singhbhum District, in the Chota Nagpur Division—see ~~Vol. V, Part V, B (d)~~.

The Act is in force in the Sonthal Parganas—see Vol. V, Part VI, B (c); but its application in the other de-regulationised tracts in Bengal is barred as follows, namely:—

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), s. 3 (2), printed in Vol. I, p. 257, and

~~in the Chittagong Hill Tracts, by the Chittagong Hill Tracts Regulation, 1900 (1 of 1900), s. 4 (2), printed in Vol. I, p. 222.~~

OTHER ENACTMENTS.—As to the attendance of landholders or their agents, see also—

the Bengal Land-revenue Regulation, 1793 (2 of 1793), s. 33, *ante*, p. 452;
the Bengal Land-revenue Assessment Regulation, 1801 (1 of 1801), s. 10, *ante*, p. 498;
the Bengal Patwari Regulation, 1817 (12 of 1817), ss. 29, 31, 32, *ante*, pp. 122 and 123;
the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819 (2 of 1819), s. 13 (2), *ante*, p. 525;

the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 19, *ante*, p. 562;
and

the Bengal Land-revenue Settlement Regulation, 1825 (9 of 1825), s. 5 (2), *ante*, p. 579.

INSTRUCTIONS.—For instructions as to the working of this Act, see the Board's Rules, 1902, p. 221.

of 1848.]

ATTENDANCE ACT, 1848.

(Secs. 1-7.)

power were given to the officer by whom the requisition is made to impose and levy reasonable fines, subject to review by the Commissioner of Revenue and other superior authority;

It is enacted as follows :—

1. If any proprietor or farmer of land shall omit or refuse to attend, or to cause his officer or agent to attend, when duly summoned by the Collector, in any case specified in any of the said Regulations, by the time prescribed in the notice issued by the Collector, or shall omit or refuse to furnish the accounts or documents required, and shall not show sufficient cause for such omission, the Collector may impose of his own authority such daily fine, to be payable daily until compliance with the requisition, as he may think adequate to the situation and circumstances in life of the defaulter, not exceeding in any case the daily fine of fifty rupees: and the amount of such fine, accruing due from time to time, may be levied without further confirmation by the same process [1] as is prescribed for the recovery of arrears of revenue.

Penalty on landholders not attending when summoned by Collector.

Levy of fine.

2. The Collector shall forthwith report the imposition of every such fine, and the amount thereof, and also from time to time the amount levied, to the Commissioner of Revenue, who shall report the same for the information of the Local Government.

Report of imposition and levy of fine.

3. Every order passed by a Collector under this Act shall be appealable in the usual manner to the Commissioner of Revenue and other superior authority; but no such appeal shall avail to prevent the levy of any fine so imposed pending the appeal.

Appeal from Collector's orders.

4. Whenever the amount levied under any such order issued for any default by authority of a Collector under this Act shall have exceeded five hundred rupees, the Collector shall report the case specially to the Commissioner of Revenue; and no further levy for such default shall be made otherwise than by authority of the Commissioner of Revenue.

Special report of levy exceeding five hundred rupees.

5. Nothing in this Act contained shall be deemed to repeal the power of imposing daily fines and of levying the fines so imposed in the manner prescribed by the said several Regulations.

Saving of power to fine.

6. The word "Collector" used in this Act shall be taken to mean any person lawfully exercising the powers of a Collector.

"Collector" defined.

7. This Act shall not extend to the North-West Provinces [2] of the Presidency of Bengal.

Extent of Act.

[1] See the enactments printed under the head "Recovery of Public Demands" in Vol. IV of this Code.

[2] The designation of these Provinces has been changed—see the United Provinces Designation Act, 1902 (7 of 1902), in General Acts, 1839-03, Ed. 1904, p. 200.

THE BENGAL LAND-REVENUE RESUMPTION ACT, 1862 [1]

(BENGAL ACT 7 OF 1862).

[7th May, 1862.]

An Act to repeal section 30 of Regulation 2, 1819 [2] (for modifying the provisions contained in the existing Regulations regarding the resumption of the revenue of lands held free of assessment under illegal or invalid tenures, and for defining the right of Government to the revenue of lands not included within the limits of estates for which a settlement has been made).

Preamble.

WHEREAS by section 30 of Regulation 2, 1819, [2] it is enacted that certain suits preferred in a Court of Judicature regarding lands held, or claimed to be held, free of assessment, shall be referred for investigation to the Collector, and that similar suits may be preferred in the first instance to the Collector; and whereas such reference of suits is unnecessary and causes inconvenience and delay in their decision, and it is advisable that such suits should be preferred and disposed of exclusively in the ordinary Courts of Civil Judicature; It is enacted as follows:—

1. [*Repeal of s. 30 of the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819 (2 of 1819).*] *Rep. by the Repealing Act, 1873 (12 of 1873).*

Suits for
resumption of
land held free

2. All suits preferred by proprietors, farmers or talukdars to resume the revenue of any land held free of assessment, as well as all suits preferred

[1] SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), printed in Vol. I, p. 18.

LOCAL EXTENT.—Since this Act contains no "local extent" clause, it must be taken to extend to the whole of Bengal.

The Act has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the following Scheduled Districts, namely:—

the Ranchi, Palamau and Manbhum Districts, and Pargana Dhalbhum in the Singhbhum District, in the Chota Nagpur Division—see Vol. V, Part V, B (b).

The Act is in force in the Sonthal Parganas—see Vol. V, Part VI, B (c); but its application in the other de-regulationised tracts in Bengal is barred as follows, namely:—

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), s. 3 (2), printed in Vol. I, p. 257, and

~~in the Chittagong Hill tracts, by the Chittagong Hill tracts Regulation, 1900 (1 of 1900), s. 4 (2), printed in Vol. I, p. 208.~~

[2] The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed ante, p. 518.

of 1862.]

RESUMPTION ACT, 1862.

(Sec. 2.)

by individuals claiming to hold land exempt from the payment of revenue, shall be instituted, heard and determined in and by the Courts of Civil Judicature, like ordinary civil suits, and under the rules and subject to all the provisions contained in Act 8 of 1859 (*for simplifying the procedure of the Courts of Civil Judicature not established by Royal Charter*), [1] and not otherwise.

of assessment
and claims
to hold
land exempt
from revenue
to be tried in
Civil Courts.

3, 4.—[*Application of Act to pending suits ; saving of proceedings had under s. 30 of the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819 (2 of 1819) before passing of Act.*] *Rep. by the Repealing Act, 1874 (16 of 1874).*

* [1] Act 8 of 1859 was repealed by Act 10 of 1877, which again has been repealed and re-enacted by Act 14 of 1882. This reference to the Act of 1859 should now be read as applying to the Act of 1882—see s. 3 of the latter Act, in General Acts, 1882-84, Ed. 1898, p. 264.

THE BENGAL LAND-REVENUE SETTLEMENT [Ben. Act 3 of 1868.]
ACT, 1868.

THE BENGAL LAND-REVENUE SETTLEMENT ACT,
1868 ^[1]

(BENGAL ACT 3 OF 1868).

[1st July, 1868.]

An Act to amend the law respecting appeals in cases under
Regulation 7 of 1822 ^[2].

Preamble.

WHEREAS it is expedient that the period for presenting appeals under section 29 of Regulation 7 of 1822 ^[2] should be assimilated to the period for bringing appeals in other cases pending before the revenue-authorities; It is enacted as follows :—

Limitation of
appeals under
section 29,
Regulation
7, 1822.

1. No petition of appeal presented under the provisions of section 29 of Regulation 7 of 1822 ^[2] shall be received after the expiration of thirty days from the date of the decision against which such appeal is presented, unless sufficient cause shall be shown for the delay to the satisfaction of the authority to which such appeal is presented.

The days shall be reckoned from and exclusive of the day on which the decree was passed, and also exclusive of such time as may be requisite for obtaining a copy of the order appealed against.

2. [Commencement of Act.] Rep. by the Repealing Act, 1873 (12 of 1873).

[1] SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), printed in Vol. I, p. 18.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1868, p. 956, and for Proceedings in Council, see *ibid*, Supplement, pp. 281, 293, 333 and 371.

LOCAL EXTENT.—Since this Act contains no "local extent" clause, it must be taken to extend to the whole of Bengal.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the following Scheduled Districts, namely :—

the Hazaribagh, Ranchi, Palamau and Manbhum Districts, and Pargana Dhalbhum and the Kolhan in the Singhbhum District, in the Chota Nagpur Division—see Vol. V, Part V, B (b).

The application of the Act in the de-regulationised tracts in Bengal is barred as follows, namely :—

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), s. 3 (2), printed in Vol. I, p. 257 ;

~~in the Chittagong Hill tracts, by the Chittagong Hill tracts Regulation, 1900 (1 of 1900), s. 4 (2), printed in Vol. I, p. 222, and~~

in the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation (3 of 1872), s. 3 (2), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s. 3, printed in Vol. I, p. 294.

[2] The Bengal Land-revenue Settlement Regulation, 1822. It is printed *ante*, p. 539.

[Act 23 of 1850.] THE CALCUTTA LAND-REVENUE ACT, 1850.

THE CALCUTTA LAND-REVENUE ACT, 1850 [1]

(ACT 23 OF 1850).

[8th June, 1850.]

An Act for securing the Land-revenue of Calcutta.

WHEREAS it is expedient that the land-revenue accruing due to the East India Company within Calcutta be ascertained and collected in as summary a manner as in other parts of the territories under the government of the East India Company; It is declared and enacted as follows:—

1. All assessable lands, not the property of the East India Company, [2] within the town of Calcutta, of which the rate of assessment is not known, or which have not heretofore been assessed, shall be assessed at the rate of three annas for each cottah.

Assessment of unassessed lands.

2. Lakhiraj tenures of land in Calcutta, of which uninterrupted possession has been held exempt from assessment for sixty years, shall be valid: no other lakhiraj tenures of land in Calcutta shall be deemed valid unless the same are or shall be held under an unexpired grant from the British Government.

Lakhiraj tenures.

3. If any owner of land within Calcutta, or any person holding land within Calcutta on lease from the East India Company, [2] shall, upon the written demand of the Collector, refuse or neglect to pay any sum at which the land is assessed, or for which he is liable under his lease, the Collector may levy the same by distress and sale of the goods and chattels, wherever found, of such owner or lessee, or, after written demand upon the tenant or occupier, and his refusal or neglect to pay the sum lawfully demanded, by distress and sale of any goods and chattels found upon the land, in the manner appointed for regulating distress for small rents in Calcutta by [3] [the Presidency Small Cause Courts Act, 1882, Chapter VIII]: and, for the purpose of any such dis-

Levy, by distress and sale, of unpaid assessments.

18 of 1882.

[1] SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), printed in Vol. I, p. 18.

LOCAL EXTENT.—This Act extends only to Calcutta—see the title and preamble.

DEPUTY COLLECTOR.—As to the transfer of the Collector's duties under this Act to the Deputy Collector, see the Calcutta Land-revenue Act, 1856 (18 of 1856), s. 3, post, p. 618.

[2] As to the transfer of the territories of the East India Company to the Crown, see the Government of India Act, 1858 (21 and 22 Vict., c. 106), printed in the Collection of Statutes relating to India, Vol. I, Ed. 1899, p. 300.

[3] The words and figures "the Presidency Small Cause Courts Act, 1882, Chapter VIII," in s. 3, were substituted for the word and figures "Act 7, 1847," by the Presidency Small Cause Courts Act, 1882 (15 of 1882), s. 3, printed in the General Acts, 1882-84, Ed. 1898, p. 591.

**Powers of
Collector for
distress and
sale.**

distress and sale, the Collector shall have all the powers of [1] [the Judges of the Court of Small Causes at Calcutta] ; and the Collector shall have power to appoint any of his officers to perform the duties of bailiffs and appraisers, and of the chief clerk of the said Court, * * [2] and all the provisions of the said Act relating to [1] [the Judges of the Court of Small Causes at Calcutta] and their Court shall be deemed to apply to the said Collector and his office in the execution of this Act.

**Deduction by
occupier from
landlord's
rent.**

4. In the case of payment by any tenant or occupier not holding immediately under the East India Company, or the seizure and sale of his property, he may deduct the amount of the payment or levy from the next payment of rent to his landlord.

**Priority of
Government
claim.**

5. The claim of the East India Company for land-revenue or rent has priority over all other claims upon the land, or to which property distrained upon the land may be liable.

**Distress not
stayed unless
amount
lodged.**

6. If the Collector's claim for arrears of rent is disputed, the process of distraint and sale shall not be stayed, unless the amount claimed be lodged with the Collector.

**Recovery of
arrears.**

7. Arrears of rent or revenue which shall become due to the East India Company within the town of Calcutta after the passing of this Act shall be recoverable at any time within six years next after the same are due, or next after an acknowledgment of the same in writing has been given by the person by whom the same is payable or his agent, and not afterwards.

**Inquiry into
claims to
hold land
lakhiraj.**

8. When a claim to hold land lakhiraj or free of assessment shall be set up under this Act, the Collector shall inquire into the claim, taking such evidence as the claimant may offer or the public records supply, and shall report his proceedings and decision in the case for the consideration of the Revenue Commissioner. If the Commissioner is satisfied of the validity of the claim, he shall make an order accordingly, and such order shall be final. If he is not satisfied of the validity of the claim, he shall direct the Collector to assess the land, leaving the claimant to contest the Collector's demand in the Civil Courts as herein provided.

**Penalty for
obstructing
Collector.**

9. Any person obstructing or molesting the Collector or any of his subordinate officers in the execution of their duty shall, on conviction before a

[1] The words "the Judges of the Court of Small Cause at Calcutta," in s. 3, were substituted for the words "a Commissioner of the Court for recovery of small debts referred to in the said Act" and "the said Commissioners" respectively, by the Presidency Small Cause Courts Act, 1882 (15 of 1882), s. 3, printed in the General Acts, 1882-84, Ed. 1898, p. 591.

[2] The words "as provided by the said Act", which were repealed by the same Act and section, are omitted.

of 1850.]

LAND-REVENUE ACT, 1850.

(Secs. 10-14.)

Magistrate of the town of Calcutta, be liable to a fine not exceeding five hundred rupees, and, in default of payment, to imprisonment in the common jail for a term not exceeding six months, or until the fine is sooner paid.

10. The Collector may punish any contempt committed in his presence in open cutcherry or office, by fine not exceeding two hundred rupees, and, in default of payment, by imprisonment in the common jail for a term not exceeding one month : from every such order, or fine or imprisonment, an appeal shall lie to the Commissioner, whose decision shall be final.

Power to punish contempts.

11. The Collector shall act in the execution of this Act under the usual control of the superior Revenue-authorities.

Control of Collector.

12. The ground-rents payable to the East India Company from lands in Calcutta are revenue within the meaning of the Act of Parliament 21 Geo. 3, c. 70, [1] and the Supreme Court [2] of Judicature established by Royal Charter at Fort William in Bengal has not any civil jurisdiction concerning the said ground-rents or concerning anything ordered or done in the assessment or collection thereof.

Bar of jurisdiction of Supreme Court.

13. All actions concerning any trespass or injury committed by any revenue-officer acting under colour of this Act, or concerning any claim in respect of any goods taken by, or any moneys paid to, any revenue-officer under this Act, or concerning any claim of rent or revenue on the part of the East India Company under this Act, shall be tried and determined in the Civil Courts established by the East India Company at the sadar station of the 24-Parganas, notwithstanding that the cause of action in respect of which such action is brought arose, or the defendant therein resides, within the limits of the town of Calcutta : and every such action shall be brought within six months after the cause of action arose, and not afterwards.

Jurisdiction of Courts of 24-Parganas.

14. The words "Collector" and "Commissioner" used in this Act shall be taken to mean any person lawfully appointed to exercise the powers of Collector and Commissioner respectively.

"Collector," "Commissioner."

[1] The East India Company Act, 1870. It is printed in the Collection of Statutes relating to India, Vol. I, Ed. 1899, p. 17.

[2] Now the High Court—see the Indian High Courts Act, 1861 (24 and 25 Vict., c. 104), s. 11, printed in the Collection of Statutes relating to India, Vol. I, Ed. 1899, p. 359.

THE CALCUTTA LAND-REVENUE ACT, 1856 [1]

(ACT 18 OF 1856).

[23rd August, 1856.]

An Act relating to the administration of the public revenues in the Town of Calcutta.

amble.

WHEREAS it is expedient that the Collector of Calcutta * * * [2] should have power to employ any Deputy Collector subordinate to him, in the performance of any part of the duties of his office; It is enacted as follows:—

1. [Regulations modified.] *Rep. by the Repealing and Amending Act, 1891 (12 of 1891).*

2. [Collector to have charge of collection of stamp-duty in Calcutta.] *Rep. by the General Stamp Act, 1869 (18 of 1869).*

Collector may
rust any
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des to his
puty.

3. It shall be lawful for the Collector of Calcutta to employ any Deputy Collector subordinate to him in the performance of any part of the duties of his office under * * * [3] Act 23 of 1850 [4]; and all Rules, Regulations and Acts relating to the office of Deputy Collector shall be of the same force within the town of Calcutta as in other parts of the territories subject to the Presidency of Fort William in Bengal.

[1] SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), printed in Vol. I, p. 18.

[2] The words, "should have charge of the collection of the stamp-duty within the town of Calcutta, and that he," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

[3] The words and figures "the said Regulation, or under Act 11 of 1849, or," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

[4] The Calcutta Land-revenue Act, 1856. It is printed *ante*, p. 615.

LAWS ACTS.

RAIPUR AND KHATTRA—

Act 19 of 1879 . . . the Raipur and Khattra Laws Act, 1879 . . . page 619

BANKI—

Act 25 of 1881 . . . the Banki Laws Act, 1881 . . . 620

THE RAIPUR AND KHATTRA LAWS ACT, 1879

(ACT 19 OF 1879). [1]

[29th October, 1879.]

An Act to amend the law in force in Thanas Raipur and Khattra.

WHEREAS the territory comprised in the thana of Raipur (including the independent police-outpost of Simlapal) and the thana of Khattra has been transferred from the district of Manbhum to the district of Bankura;

Preamble.

And whereas the said territory, when included in the district of Manbhum, formed portion of the Chota Nagpur Division, which is a scheduled district under Act No. 14 of 1874 (the Scheduled Districts Act, 1874)[2];

And whereas it is expedient that the law in force in the said territory should be the same as the law in force in the district of Bankura; It is hereby enacted as follows:—

1. This Act may be called the Raipur and Khattra Laws Act, 1879: and it shall come into force at once.

Short title.
Commence-
ment.

2. All enactments which on the first day of October, 1879, were in force in the district of Bankura and not in the said territory shall be deemed to have come into force in the said territory on that day; and all enactments which on that day were in force in the said territory and not in the district of Bankura shall be deemed to have been repealed on and from that day in the said territory.

Laws of
Bankura to
apply.
Other laws
repealed.

3. [Pending proceedings.] *Rep. by the Repealing and Amending Act, 1891 (12 of 1891).*

4. The said territory shall be deemed to have ceased to be a scheduled district on the said first day of October, 1879.

Territory to
cease to be a
scheduled
district.

[1] LEGISLATIVE PAPERS.—For Proceedings in Council, see Supplement to Gazette of India, 1879, p. 1876.

LOCAL EXTENT.—This Act extends only to the thanas of Raipur and Khattra, in the district of Bankura—see the preamble.

[2] Printed in the General Acts, 1867-76, Ed. 1898, p. 467.

THE BANKI LAWS ACT, 1881

(ACT 25 OF 1881). [1]

[27th October, 1881.]

An Act to amend the law in force in the Mahal of Banki.

Preamble.

WHEREAS it has been determined to annex the territory comprised in the mahal of Banki to the district of Cuttack :

And whereas the said territory forms portion of a scheduled district under the Scheduled Districts Act, 1874 [2] :

14 of 1874.

And whereas it is expedient that the law in force in the said territory should, on such annexation, be the same as the law in force in the district of Cuttack, and that the said territory should cease to be a portion of a scheduled district ;

It is hereby enacted as follows :—

Short title.

1. This Act may be called the Banki Laws Act, 1881.

Laws of Cuttack to apply.

2. All enactments which shall, on the first day of April, 1882, be in force in the district of Cuttack and not in the said territory shall be deemed to come into force in the said territory on that day :

Other law repealed.

And all enactments which shall on that day be in force in the said territory and not in the district of Cuttack shall be deemed to be repealed on and from that day in the said territory.

3. [Pending proceedings.] *Rep. by the Repealing and Amending Act, 1891 (12 of 1891).*

Territory to cease to be a scheduled district.

4. On and from the said first day of April, 1882, the said territory shall cease to be a portion of a scheduled district ; and in Part III of the first schedule to the said Scheduled Districts Act, 1874, for the words "Mahals of Angul and Banki," the words "Mahal of Angul" shall be substituted ;

* * * * *

[1] LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Gazette of India, 1881, Pt. V, page 991, and for Proceedings in Council, see *ibid*, Supplement, 1881, pages 687, 647 and 1244.

LOCAL EXTENT.—This Act extends only to the mahal of Banki in the District of Cuttack—see the preamble.

[2] Printed in the General Acts, 1867-76, Ed. 1898, p. 467.

[3] The remainder of s. 4 (relating to the repeal of references to Banki in Regulations 12 and 13 of 1805 and 11 of 1816), was repealed by the Repealing and Amending Act, 1891 (12 of 1891), and is omitted.

LEGISLATIVE COUNCIL OF BENGAL.

THE BENGAL LEGISLATIVE COUNCIL (WITNESSES) ACT, 1866 (BENGAL ACT 3 OF 1866).

CONTENTS. [1]

PREAMBLE.

SECTION.

1. Power to summon persons to appear.
2. Administration of an oath or affirmation.
3. Powers against persons failing to appear, etc.
4. Expenses of witnesses.
5. Provisions of sections 21 and 32 of Act 2 of 1855 extended.
6. Interpretation.

THE BENGAL LEGISLATIVE COUNCIL (WITNESSES) ACT, 1866 [2] (BENGAL ACT 3 OF 1866).

[28th March, 1866.]

An Act to provide for the attendance and examination of witnesses before the Council of the Lieutenant-Governor of Bengal for making Laws and Regulations.

WHEREAS it is expedient to make provision for the attendance of witnesses before the Council of the Lieutenant-Governor of Bengal for making

[1] This table has been newly added.

[2] SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), printed in Vol. I, p. 18.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1866, p. 252.

LOCAL EXTENT.—~~Since this Act contains no "local extent" clause, it must be taken to have been intended to extend to the whole of Bengal. See S. 1.~~

The Act has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the following Scheduled Districts, namely:—

the Hazaribagh, Ranchi, Palamau and Manbhum Districts, and Pargana Dhalbhum and the Kolhan in the Singhbhum District, in the Chota Nagpur Division—see Vol. V, Part V, B (b).

The Act is in force in the Sonthal Parganas—see Vol. V, Part VI, B (c), but its application in the other de-regionalised tracts in Bengal is barred as follows, namely:—

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), s. 3 (3), printed in Vol. I, p. 257, and

in the Chittagong Hill tracts, by the Chittagong Hill tracts Regulation, 1890 (1 of 1890), s. 3 (3), printed in Vol. I, p. 282.

OTHER ACTS, AND RULES AND ORDERS.—The Bengal General Clauses Act is Ben. Act 1 of 1899. It is printed in Vol. I of this Code, p. 3.

For an annotated reprint of the Indian Councils' Acts and other Acts relating to the Bengal Council, and the Proclamations, Regulations and Rules issued for that Council, see the Bengal Legislative Council Manual, 1900.

Laws and Regulations and for the examination of such witnesses; It is enacted as follows:—

Power to
summon
persons to
appear.

1. It shall be lawful for the ~~Lieutenant~~ Governor of Bengal, by a summons under the hand of the Secretary or Assistant Secretary to the Government of Bengal in the Legislative Department [1] for the time being,

to require the attendance before the Council of the ~~Lieutenant~~ Governor of Bengal for making Laws and Regulations, at a time and place to be mentioned in such summons, of any person, residing within any of the provinces or places subject to the Government of the ~~Lieutenant~~ Governor of Bengal, whose evidence shall, in the judgment of such Council, be material with reference to any project of Law, Bill or Act then under consideration by such Council,

and by such summons to require the person so summoned to produce before such Council all such books, deeds and writings as to the said Council shall appear necessary for obtaining information as to the matter so under consideration;

and every person so summoned shall, according to the exigency of the summons, attend before the said Council, and produce such books, deeds and writings as shall be in his power, custody or control.

Adminis-
tration of an
oath or
affirmation.

2. It shall be lawful for the said Secretary or Assistant Secretary to the Government of Bengal in the Legislative Department [1] for the time being, or any other officer appointed in that behalf by the ~~Lieutenant~~ Governor, to administer an oath or affirmation, [2] in such form as to the said Council shall seem fit, to any person appearing in obedience to such summons as aforesaid.

But nothing herein contained shall prevent such person from giving evidence without oath or affirmation, if the said Council shall think it expedient that the evidence should be so given.

Powers
against per-
sons failing to
appear, etc.

3. If any person, upon whom any such summons shall be served by the delivery thereof to him, or leaving thereof at his usual or last known place of abode,

shall, without reasonable cause (to be allowed by the said ~~Lieutenant~~ Governor of Bengal), fail to appear before the said Council at the time and place mentioned in the summons, or

[1] The official title of this officer is now "Secretary to the Bengal Council and Assistant Secretary to the Government of Bengal in the Legislative Department".

[2] As to oaths and affirmations, see the Indian Oaths Act, 1873 (10 of 1873), in General Acts, 1868-76, Ed. 1898, p. 411.

of 1866.]

(WITNESSES) ACT, 1866.

(Secs. 4, 5.)

shall refuse to make oath or affirmation as required, or

shall not make answer to such questions as shall be put to him touching the matter under consideration as aforesaid, or

shall refuse or fail, without reasonable cause (to be allowed by the said *Forth Hall*
~~Lieutenant-Governor~~ of Bengal), to produce to the said Council any book, deed or writing in his possession, power or control as by the said Council he shall be required to produce (whether mentioned in the summons or not),

the ~~Lieutenant-Governor~~ of Bengal shall, on the report of the said Council that such failure or refusal has taken place, have the power, by warrant under his hand, to direct that such person be apprehended and committed to close custody in a place and for a time specified in the warrant, unless he shall in the meantime comply, to the satisfaction of the said Council, with such requisitions as have been made on him touching his examination.

The warrant may be directed to any officer appointed in that behalf by the ~~Lieutenant-Governor~~ *of Fort William in Bengal*.

~~4.~~ Whenever a summons is issued for the attendance of a witness under this Act, the ~~Lieutenant-Governor~~ of Bengal may, if he thinks fit, order such witness to receive from the Collector or Commissioner of the district or division in which the witness resides such expenses as he would have been entitled to receive if summoned as a witness before the principal Court of original jurisdiction within the limits of which he shall be residing.

Expenses of witnesses.

5. The provisions of sections 21 and 32 of Act 2 of 1855 [1] (*for the further improvement of the Law of Evidence*) shall extend to witnesses examined before the said Council of the ~~Lieutenant-Governor~~ of Bengal.

Provisions of sections 21 and 32 of Act 2 of 1855 extended.

[1] These sections are as follow :—

“ 21. A witness, whether a party or not, shall not be bound to produce any document relating to affairs of State, the production of which would be contrary to good policy, nor any document held by him for any other person who would not be bound to produce it if in his own possession.

“ 32. A witness shall not be excused from answering any question relevant to the matter in issue in any suit or in any civil or criminal proceeding, upon the ground that the answer to such question will criminate, or may tend, directly or indirectly, to criminate, such witness, or that it will expose, or tend, directly or indirectly, to expose, such witness to a penalty or forfeiture of any kind :

Provided that no such answer, which a witness shall be compelled to give, shall, except for the purpose of punishing such person for wilfully giving false evidence upon such examination, subject him to any arrest or prosecution, or be used as evidence against such witness in any criminal proceeding.”

Act 2 of 1855 has been repealed by the Indian Evidence Act, 1872 (1 of 1872,—printed in General Acts, 1868-76, Ed. 1898, p. 222), which does not expressly save references; but this reference appears to be unaffected by the repeal—see *Hardcastle on Statutory Law*, 18th Edition, p. 380.

THE BENGAL LEGISLATIVE COUNCIL (WIT- [Ben. Act 3 of 1866.]
NESSES) ACT, 1866.

(Sec. 6.)

Interpreta-
tion.

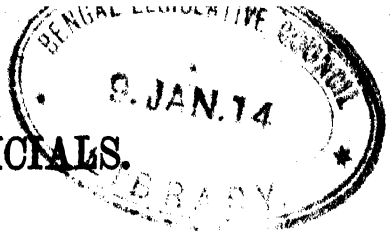
6. Throughout this Act, unless the contrary appears from the context,—

* * * * *

"Council."

the word "Council" shall include any committee of the whole Council,
and any Select Committee of the Council of the ~~Lieutenant-Governor of~~
Bengal for making Laws and Regulations.

[1] Words as to number and gender, which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted. See now the Bengal General Clauses Act, 1899 (Ben. Act 1 of 1899), s. 14, in Vol. I, p. 10.



LOANS BY OR TO OFFICIALS.

LOANS BY OFFICIALS.

Reg. 88 of 1793 the Indian Civil Service (Bengal)
Loans Prohibition Regulation,
1793 page 625

LOANS TO OFFICIALS.

Reg. 7 of 1823 the Indian Civil Service (Bengal)
Loans Prohibition Regulation,
1823 „ 627

THE INDIAN CIVIL SERVICE (BENGAL) LOANS PROHIBITION REGULATION, 1793 ^[1]

(REGULATION 88 OF 1793).

[1st May, 1793.]

A Regulation for re-enacting, with modifications, such part of the Rule passed on the 27th June, 1787, as prohibits covenanted Civil Servants of the Company employed in the administration of justice or the collection of the public revenue lending money to zamindars, independent talukdars or other actual proprietors of land, or dependent talukdars or farmers of land holding farms immediately of Government, or the under-farmers or raiyats of the several descriptions of proprietors and farmers of land above-mentioned, or their respective sureties * * * * [2];

1. At an early period after the establishment of the British Government *Preamble.*

[1] **SHORT TITLE.**—This short title was given by the Amending Act, 1897 (5 of 1897).

LOCAL EXTENT.—Ss. 1 and 2 of this Regulation have been declared, by the Laws Local Extent Act, 1874 (15 of 1874), section 6 (printed, General Acts, 1868-76, Ed. 1898, p. 484), to be in force throughout Bengal, except as regards the Scheduled Districts.

The same sections have been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), section 3, to be in force in the following Scheduled Districts, namely:—

~~West Champaguri and the Western Dooars, in the Jalpaiguri District, see Vol. V, Part V, B (a), and~~

the Hazaribagh, Ranchi, Palaman and Manbhum Districts, and Pargana Dhalbhum and the Kolhan in the Singbhum District, in the Chota Nagpur Division—see Vol. V, Part V, B (b).

The sections are in force in the Southal Parganas—see Vol. V, Part VI, B (c); but their application in the other de-regulationised tracts in Bengal is barred as follows, namely:—

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), section 3 (2), printed in Vol. I, p. 257, and
~~in the Chittagong Hill tracts, by the Chittagong Hill tracts Regulation, 1900 (2 of 1900), section 3 (2), printed in Vol. I, p. 248.~~

[2] The remainder of the title, which was repealed by the Repealing and Amending Act, 1891 (12 of 1891), is omitted.

LOANS BY OR TO OFFICIALS.

LOANS BY OFFICIALS.

THE INDIAN CIVIL SERVICE, (BENGAL) LOANS [Reg. 38 of 1793.]
PROHIBITION REGULATION, 1793.

(Sec. 2.)

in this country the servants of the Company employed in the administration of justice and the collection of revenue were prohibited from lending money to the landholders and farmers, and others concerned in the collection or payment of the revenue, in order to guard against the abuses that the powers with which they were invested would have enabled them to practise had they been permitted to engage in such transactions with individuals subject to their official control and authority.

This rule was incorporated with the Judicial Regulations passed on the 5th July, 1781, and has since continued in force.

* * * * *

The rules above-mentioned are hereby re-enacted with modifications.

Covenanted
servants pro-
hibited lend-
ing money to
proprietors,
etc., of land.

2. The Judges and Magistrates of the Zila * * [2] Courts * * * [3] and their Assistants, or other officers being covenanted servants of the Company, and the Collectors of the revenue and their Assistants, [4] are prohibited lending money, directly or indirectly, to any proprietor or farmer of land, or dependent talukdár, or under-farmer or raiyat, or their sureties; and all such loans as * * * [5] may be hereafter made are declared not recoverable in any Court of Judicature.

3-6. [*Europeans possessing land liable to be dispossessed; European mortgagees not to have possession of land; land held by Europeans to be measured; annual statements of land held by Europeans to be sent to Board of Revenue.*] *Rep. by the Repealing Act, 1868 (8 of 1868).*

[1] The remainder of s. 1 which was repealed by the Repealing and Amending Act, 1891 (12 of 1891), is omitted.

[2] The words "and City," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[3] The words "the Judges of the Provincial Courts of Appeal and the Courts of Circuit, and the registers to their respective Courts," which were repealed by the same Act, are omitted.

[4] As to the extension of this prohibition to other officers of the Government, see the Board's Rules, 1902, pp. 86, 87.

[5] The words "have been made in opposition to the repeated prohibitions of Government, or which," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

Portion

LOANS TO OFFICIALS.

[Reg. 7 of 1823.] THE INDIAN CIVIL SERVICE (BENGAL) LOANS PROHIBITION REGULATION, 1823.

(Sec. 1.)

THE INDIAN CIVIL SERVICE (BENGAL) LOANS PROHIBITION REGULATION, 1823 [1]

(REGULATION 7 OF 1823).

[30th October, 1823.]

A Regulation for prohibiting loans by covenanted Civil Servants from persons subject to their official authority and influence.

1. WHEREAS by the existing Regulations [2] all covenanted Civil Servants of the Company, employed in the judicial and revenue departments of the service, are prohibited from lending money, directly or indirectly, to any proprietor or farmer of land, dependent talukdar, under-farmer or raiyat, or their sureties; and whereas it is equally necessary to prohibit the public officers from borrowing money from persons subject to their official authority and influence, the following rules have been enacted by the Governor General in Council, and are to be in force from the date of their promulgation throughout the Provinces immediately subject to this Presidency:

[1] SHORT TITLE.—This short title was given by the Amending Act, 1897 (5 of 1897).

LOCAL EXTENT.—This Regulation was passed for the whole of Bengal—see the end of s. 1.

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), section 6 (printed, General Acts, 1868-76, Ed. 1898, p. 484), to be, in force throughout Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), section 3, to be in force in the following Scheduled Districts, namely:—

~~West Jhalpaiguri and the Western Dooars, in the Jhalpaiguri District—see Vol. V, Part V, B (c); and~~

the Hazaribagh, Ranchi, Palam and Manbhum Districts, and Pargana Dhalbhum and the Kolhan in the Singhbhum District, in the Chota Nagpur Division—see Vol. V, Part V, B (b).

The Regulation is in force in the Sonthal Parganas—see Vol. V, Part VI, B (c); but its application in the other de-regulationised tracts in Bengal is barred as follows, namely:—

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), section 3 (2), printed in Vol. I, p. 257, and

~~in the Chittagong Hill tracts, by the Chittagong Hill tracts Regulation, 1890 (1 of 1890), section 4 (2), printed in Vol. I, p. 200.~~

GIFTS TO OFFICIALS.—For prohibition of receipt of gifts by officials, see—

the East India Company Act, 1772 (13 Geo. 3, c. 63), ss. 23 to 25 (printed in the Collection of Statutes relating to India, Vol. I, Ed. 1899, p. 12);

the East India Company Act, 1793 (38 Geo. 3, c. 52), ss. 62 to 64, 66 (printed in *ibid.*, pp. 65, 66), and

the Government of India Act, 1838 (3 and 4 Will. 4, c. 85), s. 76 (printed in *ibid.*, p. 178).

[3] See now the Indian Civil Service (Bengal) Loans Prohibition Regulation, 1793 (38 of 1793), ante, p. 625.

LOANS TO OFFICIALS.
THE INDIAN CIVIL SERVICE (BENGAL)
(Secs. 2-4.)

[Reg. 7

Civil Servants prohibited from borrowing money from Native officers under their authority.

2. *First*.—All covenanted Civil Servants, [1] in whatever department of the public service they may be employed, are hence forward prohibited, under pain of dismissal from office, from borrowing money from, or in any way incurring debt to, any Native officer under their authority, or under the authority of any of their subordinate functionaries, or from or to the known surety, agent, relation, connection or dependant of any such Native officer, or from or to any person of whom such Native officer may be known to be or to have been the servant, agent, surety or dependant.

and from other persons officially accountable to them.

Second.—In like manner, and under the like penalty, all officers of Government, being covenanted Civil Servants, [1] are henceforward prohibited, from borrowing money from, or in any way incurring debt to, any manager, guardian, executor, amin, sazawal, gumashta, farmer, mutawalli or other person, who may in any way be officially accountable to them, or from and to the known surety, agent, relation, connection or dependant of such person.

Third. [Rules applied to commercial officers.] *Rep. by the Repealing Act, 1874 (16 of 1874).*

Certain officers prohibited from incurring debt to zamindars and others residing, or having property, within their districts.

3. All [2] Commissioners, District and Sessions Judges, Deputy Commissioners and Assistant Commissioners, being members of the Indian Civil Service], are prohibited, under pain of dismissal from office, from borrowing money from, or in any way incurring debt to, any zamindar, talukdar, raiyat or other person possessing real property, or residing in, or having a commercial establishment within, the city, district or division to which their authority may extend.

Penalty for lending money to Civil Servants.

4. All persons are prohibited from lending money, or otherwise becoming in any way creditor, to any officer of Government, being a covenanted Civil Servant, in contravention of the above rules; and any person lending money, or in any way becoming creditor, to any such public officer in breach of this prohibition shall forfeit to Government a sum equal to the amount for which he shall have so illegally become creditor.

5. [Report by officers in debt.] *Rep. by the Repealing Act, 1874 (16 of 1874).*

[1] As to the extension of this prohibition to other officers of the Government, see the Board's rules, 1902, pages 37, 38.

[2] These words in square brackets were substituted for the original words by the Amending Act, 1897 (5 of 1897).

LOANS TO OFFICIALS.

of 1823.] LOANS PROHIBITION REGULATION, 1823.

(Secs. 6-8.)

6. * * [1], if any covenanted servant [2], who may be hereinafter appointed to any office, shall at the time of such appointment be indebted to any person with whom it would be illegal for him to contract a loan, while holding such office, it shall be incumbent on such servant, before entering on the duties of the office, to make known the circumstance to the [3] [Local Government]; and, failing to do so, he shall be subject to the same penalty as if the debt had been contracted subsequently to his being appointed to the said office.

Penalty for officers receiving new appointment if indebted to individuals contrary to above rules, omitting to report.

7. *[Penalty on Natives knowingly taking office in contravention of above rules.] Rep. by the Repealing and Amending Act, 1903 (1 of 1903).*

8. Suits for the recovery of penalties incurred under this Regulation shall and may be instituted under the special instructions of the [3] [Local Government], and shall be conducted by the Superintendent and Remembrancer of Legal Affairs, or by such other officer as [4] [the Local Government] may nominate for that purpose.

Suits for recovery of penalties.

Such suits shall be instituted in the * [5] Court of the division within which the transaction may have taken place, or the lender may reside or may possess real or personal property.

An appeal shall lie from judgments passed in such cases, in like manner as from other judgments passed in original suits* * [6]; and the judgments shall be enforced under the provisions* * [7] for the execution of other decrees of the Civil Courts.

[1] The words "In like manner," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

[2] As to the extension of this provision to other Civil officers, see the Board's Rules, 1902, pages 38, 39.

[3] The words "Local Government" in ss. 6 and 8 were substituted for the words "Governor General in Council" by the Amending Act, 1897 (5 of 1897).

[4] The words "the Local Government" in s. 8 were substituted for the word "Government" by the same Act.

[5] The word "Provincial," which was repealed by the Repealing Act, 1874 (16 of 1874), is omitted.

[6] The words "by the Provincial Courts," which were repealed by the same Act, are omitted.

[7] The words "of the Regulations," which were repealed by the same Act, are omitted—see now the Code of Civil Procedure (Act 14 of 1882), in General Acts, 1882-84, Ed. 1898, p. 262.

LOCAL SELF-GOVERNMENT (DISTRICTS).

THE BENGAL LOCAL SELF-GOVERNMENT ACT OF 1885 (BENGAL ACT 3 OF 1885).

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THE BENGAL LOCAL SELF-GOVERNMENT ACT OF 1885

(BENGAL ACT 3 OF 1885). [1]

[22nd July, 1885.]

An Act to extend the system of Local Self-government in Bengal.

Preamble.

WHEREAS it is expedient to extend the system of local self-government within the territories subject to the Government of the Lieutenant-Governor of Bengal; It is enacted as follows:—

Preliminary.

Short title.

1. This Act may be called the Bengal Local Self-government Act of 1885.

Extent.

It shall extend to all the territories subject to the Lieutenant-Governor of Bengal which are not included within the limits of the town of Calcutta, or of the districts of Singhbhum, the Sonthal Parganas or the Chittagong Hill-tracts,

[1] LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, *see* Calcutta Gazette, 1883, Part IV, p. 99; for Preliminary Report of Select Committee, *see* *ibid*, 1884, Part IV, p. 61; for further Report of Select Committee, *see* *ibid*, 1885, Part IV, p. 13; and for Proceedings in Council, *see* *ibid*, Supplement, 1883, pp. 90, 260, 365, 401 and 529; Supplement, 1884, pp. 262 and 560; Supplement, 1885, pp. 549, 658 and 683.

LOCAL EXTENT.—This Act extends to the whole of Bengal except the town of Calcutta, the district of Singhbhum, the Sonthal Parganas, the Chittagong Hill-tracts and places and towns in which the Bengal Municipal Act, 1884, is in force (*see* section 1, para. 2); but it does not come into force in any district until notified (*see* *ibid*, para. 3.)

The application of the Act in the Angul district is barred by the Angul District Regulation, 1894 (1 of 1894), s. 3 (2), printed in Vol. I, p. 257.

The Act has, under s. 1, para. 3, been declared in force in all districts except Darjeeling, Singhbhum, the Sonthal Parganas, the Chittagong Hill-tracts and Angul (*see* Appendix, *post*, p. 680).

It is consequently now in force throughout Bengal, except—

- (1) the town of Calcutta,
- (2) provincial municipalities,
- (3) the districts of Darjeeling and Singhbhum, and
- (4) the de-regulationised tracts, namely, the Angul district, the Chittagong Hill-tracts and the Sonthal Parganas.

It is intended to bring the Act into force in the Singhbhum district—*see* para. 1 (1) of the "Notes on Clauses" appended to the Bengal Local Self-government (Amendment) Bill, 1904, published in the Calcutta Gazette, 1904, Pt. II, p. 42.

REPRINT.—A reprint of this Act is published in the Irrigation Manual, 1897, Vol. II, pp. 210 to 229.

RULES, BYE-LAWS AND ORDERS.—For a list of rules, bye-laws and orders issued under this Act, *see* the Bengal Local Statutory Rules and Orders, 1903, Vol. I, pp. 113 to 117; and for some of those rules, bye-laws and orders *in extenso*, *see* *ib.*, Vol. II, pp. 271 to 289.

For rules under section 138—

- as to hospitals and dispensaries, *see* the Dispensary Manual, 1899;
- as to the preparation, submission and execution of projects for water-supply or drainage, *see* the Irrigation Manual, 1897, Vol. II, p. 117;
- as to education, *see* the Education Manual, 1903, p. 98;
- as to accounts and audit, *see* the Local Self-government Rules, Part VIII, 1903;
- as to the qualification of candidates for employment as District Engineers, Overseers, Sub-overseers and Accountants, *see* *ib.*, Part IX, 1902; and
- as to District Engineer's accounts, *see* *ib.*, Part IX A, 1899.

For suggestions for the guidance of District Boards in the construction of wells, *see* the Government Estates Manual, 1902, p. 7.

see Mysore Supplement.

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SELF-GOVERNMENT ACT OF 1885.

(Preliminary.—Sec. 1.)

or of any place or town to which the provisions of the Bengal Municipal Act,

As to assignments to District Boards, *see* *ib.*, p. 86.

OTHER ENACTMENTS.—As to the powers of District Boards in reference to the drainage of insanitary areas, *see* the Bengal Sanitary Drainage Act, 1895 (Ben. Act 8 of 1895), ss. 3 *et seq.*, in Vol. I, pp. 880 *et seq.*

POWERS, ETC., OF LOCAL AUTHORITIES.—District Boards are “local authorities”—*see*—

(1) the General Clauses Act, 1897 (10 of 1897), s. 3, cl. (28), in General Acts, 1891-98, Ed. 1899, p. 319, and

(2) the Bengal General Clauses Act, 1899 (Ben. Act 1 of 1899), s. 3, cl. (28), in Vol. I, p. 6.

(3) *Acquisition of land.*—As to the acquisition of land for local authorities, *see*—

(1) the Land Acquisition Act, 1894 (1 of 1894), s. 50, in General Acts, 1891-98, Ed. 1899, p. 116, and

(2) the Land Acquisition (Mines) Act, 1885 (18 of 1885), s. 14, in General Acts, 1885-90, Ed. 1898, p. 27.

(2) *Cattle-trespass.*—For power to transfer to local authorities functions of the Local Government or the District Magistrate under the Cattle Trespass Act, 1871, and for power to direct that the surplus accruing under section 18 of that Act shall be placed to the credit of local funds, *see* s. 31 of the Act, in General Acts, 1868-73, Ed. 1893, p. 192.

(3) *Coinage.*—For prohibition of receipt by local authorities, as money, of metal which is not coin, *see* the Metal Tokens Act, 1889 (1 of 1889), s. 8, in General Acts, 1885-90, Ed. 1898, p. 259.

(4) *Income-tax.*—As to annual returns by principal officers of local authorities, to facilitate recovery of income-tax, *see* the Indian Income-tax Act, 1886 (2 of 1886), s. 10, in General Acts, 1885-90, Ed. 1898, p. 35.

(5) *Lepor Asylums.*—As to the power of local authorities to expend funds and appropriate property to leper asylums, *see* the Lepers Act, 1898 (3 of 1898), s. 17, in General Acts, 1891-98, Ed. 1899, p. 849.

(6) *Loans.*—As to loans to local authorities, *see*—

(1) the Local Authorities Loan Act, 1879 (11 of 1879), in General Acts, 1877-81, Ed. 1898, p. 259;

(2) the Local Authorities (Emergency) Loans Act, 1897 (12 of 1897), in General Acts, 1891-98, Ed. 1899, p. 330;

(3) the Local Authorities Loan Act, 1904 (3 of 1904); and

(4) s. 50 of the present Act, *post*, p. 653.

(7) *Petroleum.*—For power to limit the operation of any enactment relating to local authorities, and the exercise of any power conferred by any such enactment, in so far as the enactment relates to the possession or transport of petroleum, *see* the Indian Petroleum Act, 1899 (8 of 1899), s. 23, in General Acts, 1899-03, Ed. 1904, p. 82.

(8) *Provident Funds.*—For power to extend the Provident Funds Act, 1897 (9 of 1897), to Provident Funds established for the benefit of its employees by a local authority, *see* s. 6 of that Act, in General Acts, 1891-98, Ed. 1899, p. 314.

(9) *Telegraphs.*—As to placing and maintaining telegraph lines and posts on property of local authorities, *see* the Indian Telegraph Act, 1885 (13 of 1885), ss. 12 to 15 in General Acts, 1885-90, Ed. 1898, p. 15.

(10) *Tolls.*—As to the exemption of persons and property belonging to the Army from tolls imposed by local authorities, *see* the Indian Tolls (Army) Act, 1901 (2 of 1901), in General Acts, 1899-03, Ed. 1904, p. 142.

(11) *Tramways and Railways.*—As to the powers of local authorities in respect of tramways, *see*—

(1) the Indian Tramways Act, 1886 (11 of 1886), in General Acts, 1885-90, Ed. 1898, p. 73, and

(2) the Bengal Tramways Act, 1883 (Ben. Act 3 of 1883), printed in Vol. IV of this Code.

As to the powers of District Boards in respect of tramways or railways, *see* also ss. 80 to 83 of the present Act, *post*, p. 662.

As to payment, by local authorities, of cost of bridges at railway level crossings, *see* the Indian Railways Act, 1890 (9 of 1890), s. 14, in General Acts, 1885-90, Ed. 1898, p. 418.

As to control over the taxation of railways by local authorities, *see* *ibid.*, s. 135, in *ibid.*, p. 455.

Ben. Act 3 of 1884.

Commencement.

1884, [1] have been, or may hereafter be extended :

And it shall come into force in any district [2] on such date as the Lieutenant-Governor may, by notification, direct.

Any notification, order or rule, and any appointment to an office, may be made, or election held, under this Act after it shall have received the assent of the Governor General, and shall take effect in any district on this Act coming into force therein.

Enactments repealed and amended.

2. On this Act coming into force in any district, the enactments specified in the first and second schedules shall, as regards such district, be repealed to the extent mentioned in the third column of the first schedule, and be amended to the extent mentioned in the third column of the second schedule.

But this repeal shall not revive any office, authority or thing abolished by such enactment, or affect the validity of anything which has been done or suffered, or any right, title, obligation or liability which has accrued before the commencement of this Act.

Office held under repealed provisions of Bengal Act 9 of 1880 to continue in existence until its abolition or confirmation by district board.

3. Every person holding office in any district under the repealed provisions of the Cess Act, 1880, [3] shall continue to hold such office until it shall be abolished, or a new appointment made in respect thereof, by the district board established in such district under the provisions of this Act:

Ben. Act 9 of 1880.

Provided that, if for a period of twelve months from the date on which this Act comes into force in any district, the district board does not abolish such office or make such appointment as aforesaid, the person holding such office shall be deemed to have been appointed to it under the provisions of this Act:

Provided, further, that, if such office shall be abolished or a new appointment made in respect thereof, compensation pension or gratuity shall be paid from the district fund to any person not being a servant of the Government who may be deprived of such office, and the amount of such pension or gratuity shall be calculated in accordance with any rules made under the provisions of section 138 of the Cess Act, 1880, [2]; or, if no such rules have been made, the amount shall be calculated in accordance with the rules regulating the payment of compensation pensions and gratuities to uncovenanted servants of the Government.

Ben. Act 9 of 1880.

Act not to come into force in cantonments without sanction of Governor General in Council.

4. Notwithstanding anything in section 1, this Act shall not come into force in any cantonment without the sanction of the Governor General in Council previously obtained.

[1] Printed in Vol. III of this Code.

[2] For list of districts in which this Act has been declared in force, see Appendix I on p. 680, post.

[3] Printed in Vol. I of this Code, p. 104.

LOCAL SELF-GOVERNMENT (DISTRICTS).

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of 1885.]

SELF-GOVERNMENT ACT OF 1885.

(Preliminary.—Part I.—Local Authorities.—Chapter I.—District Boards and Local Boards.—Secs. 5, 6.)

5. In this Act, unless there be something repugnant in the subject or context,—

Interpretation.

“Commissioner” means the Commissioner of a division :

“Commissioner.”

“local authority” means any district board or local board, joint committee, union committee or joint union committee constituted under this Act :

“Local authority.”

“municipal authority” means the commissioners of a municipality constituted under the provisions of the Bengal Municipal Act, 1884 [1] ;

“Municipal authority.”

“notification” means a notification published in the Calcutta Gazette :

“Notification.”

“Magistrate of the district” includes any Magistrate subordinate to the Magistrate of the district, to whom he may delegate all or any of his powers under this Act :

“Magistrate of the district.”

the term “salaried servant of Government” does not include a retired servant of Government in receipt of a pension :

“Salaried servant of Government.”

“financial year” means the year commencing on the first day of April :

“Financial year.”

“cess year” means the year as fixed by the Lieutenant-Governor under the Cess Act of 1880. [2]

“Cess year.”

Beng. Act 3 of 1884.

Beng. Act 9 of 1880.

PART I.

LOCAL AUTHORITIES.

CHAPTER I.

DISTRICT BOARDS AND LOCAL BOARDS.

Constitution of District Boards and Local Boards.

6. The Lieutenant-Governor shall, by notification, establish a district board for every district.

District boards and local boards.

The Lieutenant-Governor may, by notification, establish a local board in any sub-division or in any two or more sub-divisions combined, and may cancel or vary any such notification :

Provided that a local board shall be established in every sub-division of every district mentioned in the third schedule of this Act, and in any other sub-division to which the provisions of the next succeeding Chapter shall have been extended.

[1] Printed in Vol. III of this Code.

[2] Printed in Vol. I of this Code, p. 104.

THE BENGAL LOCAL

[Ben. Act 3

(Part I.—Local Authorities.—Chapter I.—District Boards and Local Boards.—Secs. 7-9.)

A district board shall have authority, for the purposes of this Act, over the district for which it is established, and a local board shall have authority over such sub-division or sub-divisions as the Lieutenant-Governor may, by notification, direct.

Constitution
of district
boards.

7. A district board shall consist of such number of members, not being less than nine, as the Lieutenant-Governor may, by notification, fix in this behalf, and may include elected and appointed members :

Provided that, if there be no local board within a district, the whole of the district board shall consist of appointed members.

When a local board has been established in any district, such local board shall be entitled to elect such proportion of the whole of the district board as the Lieutenant-Governor shall from time to time direct :

Provided that, when local boards have been established throughout the whole area of any district, not less than one-half of the whole district board (exclusive of the Chairman, if appointed under section 22,) shall be elected by such local boards :

Provided also that no person shall be elected a member of the district board unless he be qualified for election as a member of some local board in the district under the provisions of section 13 of this Act.

The appointed members (if any) shall be such persons and officials as the Lieutenant-Governor shall from time to time, either by name or by official designation, appoint :

Provided that not more than one-half of the appointed members shall be salaried servants of the Government.

Constitution
of local
boards.

8. A local board shall consist of such number of members, not being less than six, as the Lieutenant-Governor may by notification fix in this behalf.

Lieutenant-
Governor to
make rules
for quali-
fication of
persons en-
titled to vote
for election
of members
of local
boards.

9. Two-thirds of the members of each local board established in a district mentioned in the third schedule of this Act shall be elected under such rules, consistent with this Act, as the Lieutenant-Governor may make for each local board in respect of the qualifications required to entitle any person to vote for a candidate for election, and in respect of the time and mode of election :

Provided that every male person of the full age of twenty-one years resident within the area under the authority of a local board who is qualified in one of the manners following, that is to say :—

Qualification
of electors.

(1) is a member of a union committee within such area ;

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SELF-GOVERNMENT ACT OF 1885.

(Part. I.—Local Authorities.—Chapter I.—District Boards and Local Boards.—Secs. 10-13.)

(2) has, during the year immediately preceding such election—

(a) paid a sum of not less than one rupee on account of road-cess in respect of lands situated either wholly or in part within such area ;

(b) paid license-tax in respect of a trade, dealing or industry carried on within such area ; or

(c) been possessed of a clear annual income from any source of not less than two hundred and forty rupees ;

(3) being a member of a joint undivided family, one of the members of which is qualified for election as in this section hereinbefore provided, is a graduate or licentiate of any university, or holds a certificate as a pleader or mukhtar

shall be entitled to vote at an election of members of such local board.

10. If within the time prescribed by the rules under the last preceding section the said proportion of such members is not elected, the Lieutenant-Governor may appoint the remainder.

Lieutenant-Governor may appoint remaining members if full proportion not elected within the prescribed time.

11. One-third of the members of each local board established in a district mentioned in the third schedule of this Act shall be appointed by the Lieutenant-Governor immediately after the result of the election mentioned in section 9 shall have been notified to him, and such appointment shall be deemed to have been made on the date on which such election takes place.

Appointment of members of local boards by Lieutenant-Governor to take effect on result of election.

12. In cases where the whole number of members is not evenly divisible by two or by three, the one-half or one-third, as the case may be, shall be ascertained by taking the number next below the whole number which is evenly divisible by two or by three as the number to be divided.

Proportionate number of members how to be ascertained if the whole number is not evenly divisible by two or by three.

13. The Lieutenant-Governor shall make rules, consistent with this Act, defining the qualifications of candidates for election as members of each local board established in a district mentioned in the third schedule of this Act :

Qualification for election as members of local boards established in districts mentioned in schedule.

Provided that every male person, of the full age of twenty-one years, who is qualified in one of the manners following, that is to say :—

(1) is a member of a union committee within the area under the authority of such local board ;

(Part I.—Local Authorities.—Chapter I.—District Boards and Local Boards.—Secs. 14-16.)

(2) has during the year immediately preceding such election had his fixed place of abode within the area under the authority of such local board; and

(a) paid a sum of not less than five rupees on account of road-cess in respect of land situated, either wholly or in part, within the area under the authority of such local board ;

(b) paid a licence-tax of not less than twenty rupees in respect of a trade, dealing or industry carried on within the area under the authority of such local board ; or

(c) been possessed of a clear annual income from any source of not less than one thousand rupees :

(3) being a member of a joint undivided family, one of the members of which is qualified for election under clause (1) or clause (2) (a) or (b) of this proviso, is a graduate or licentiate of any university, or holds a certificate as a pleader or mukhtar ;

shall be deemed to be qualified for election as a member of such local board.

14. It shall be lawful for the Lieutenant-Governor, by notification from time to time, to add the name of any district [1] to the list included in the third schedule of this Act.

From and after the date of such notification such district shall, for the purposes of this Act, be deemed to be a district mentioned in such schedule.

15. The members of a local board, established in a district not mentioned in the third schedule of this Act, shall be appointed by the Lieutenant-Governor, either by name or by official designation :

Provided that not more than one-half of the whole number shall be salaried servants of the Government :

Provided, further, that the Lieutenant-Governor may, at any time in regard to any local board, direct that two-thirds of the members of such local board shall be elected under the provisions of sections 9, 10 and 13, and that one-third shall be appointed under the provisions of section 11.

16. A member of a district board or local board, when appointed by official designation, shall, unless and until the Lieutenant-Governor otherwise directs, continue to be a member of the board while he continues to hold the office to which such designation refers.

The term of office of all other members of a district board or a local

[1] The district of Mymensingh has been added to the list included in the third schedule—see Notification dated 4th September, 1892, in Calcutta Gazette, 11th *idem*, Part I, B, page 191.

Lieutenant-Governor may add names of districts, not already included, to schedule.

Constitution of local boards in districts not mentioned in schedule.

Term of office of members of district board and local board.

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(Part I.—Local Authorities.—Chapter I.—District Boards and Local Boards.—Secs. 17-19.)

board shall be fixed by the Lieutenant-Governor by rules made under this Act, which may provide for the retirement of members by rotation.

An outgoing member, if otherwise qualified, may be re-elected or re-appointed.

17. A member of a district board or local board may resign by notifying in writing his intention to do so, in the case of a member of a district board to the Lieutenant-Governor, and in the case of a member of a local board to the Commissioner, and on such resignation being accepted by the Lieutenant-Governor or Commissioner, respectively, the member shall be deemed to have vacated his office, and shall not be re-elected until the expiration of the term for which he would have held the office but for his resignation.

Resignation
of members.

18. The Lieutenant-Governor may remove any member of a district board or local board—

Powers of
Lieutenant-
Governor to
remove
members.

(a) if he refuses to act, or becomes incapable of acting, or is declared insolvent, or is convicted of any such offence, or subjected by a Criminal Court to any such order, as, in the opinion of the Lieutenant-Governor, formed after due inquiry, unfits him to be a member ;

(b) if he has been declared by notification to be disqualified for employment in the public service ;

(c) if he, without an excuse, sufficient in the opinion of the Lieutenant-Governor, absents himself from six consecutive meetings of the board ;

(d) when he is a salaried servant of the Government, if his continuance in office is, in the opinion of the Lieutenant-Governor, undesirable.

19. When the place of an elected member of a district board or local board becomes vacant by the resignation or removal of the member, or by his death, a new member shall be elected in accordance with the rules made by the Lieutenant-Governor under this Act to fill the place :

Filling of
casual vacan-
cies.

Provided that no act of the board or of its officers, or of the board in meeting, shall be deemed to be invalid by reason only that the number of the board, at the time of the performance of such act, was less than the prescribed number.

When the place of an appointed member of a district board or local board becomes vacant as aforesaid, the Lieutenant-Governor may, if he thinks fit, appoint a new member to fill the place.

Part I.—Local Authorities.—Chapter I.—District Boards and Local Boards.—Secs. 20-25.)

A person elected or appointed under this section to fill a casual vacancy shall hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office, but may be re-elected or re-appointed.

Incorporation
of district
boards.

20. Every district board shall be a body corporate by the name of "the district board of [name of district]," and shall have perpetual succession and a common seal, with power to acquire and hold property, both moveable and immoveable, and, subject to any rules made by the Lieutenant-Governor under this Act, to transfer any such property held by it, and to contract and do all other things necessary for the purposes of this Act, and may sue and be sued in its corporate name.

Time for
district
boards and
local boards
coming into
existence.

21. The several district boards and local boards constituted under this Act shall come into existence at such time as the Lieutenant-Governor may by notification fix in this behalf.

Chairman and Vice-Chairman.

Chairman of
district
board.

22. Every district board shall be presided over by a chairman who shall be appointed by the Lieutenant-Governor, or, should the Lieutenant-Governor in any case so direct, be elected by the members of such board from among their own number, subject to his approval.

Vice-chair-
man of
district
board.
Term of office
of chairman
and vice-
chairman of
district
board.

23. Every district board shall from time to time elect one of its members to be Vice-chairman.

24. The term of office of an appointed chairman shall be one year from the date of his appointment, but he may be re-appointed on the expiration of such term. Every appointed chairman shall be deemed to be a member of the board during such term.

The term of office of an elected chairman or of a vice-chairman of a district board shall be the residue of his term of office as a member of the board.

Chairman of
local board.

25. Every local board shall be presided over by a chairman who shall be elected by the members from among their own number, subject to approval by the Lieutenant-Governor; or the local board may, at a meeting attended by not less than two-thirds of its members, request the Lieutenant-Governor to appoint a chairman.

If the local board fails to elect such chairman as aforesaid within a period of one month from the time prescribed for such election by any rules made by

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(Part I.—Local Authorities.—Chapter I.—District Boards and Local Boards.—Secs. 26-29.)

the Lieutenant-Governor under this Act, or within such extended time as the Lieutenant-Governor may in his discretion allow for such election, the Lieutenant-Governor shall appoint such chairman.

The term of office of a chairman shall be the residue of his term of office as a member of the board.

26. Every local board shall from time to time elect one of its members to be vice-chairman. The term of office of a vice-chairman shall be the residue of his term of office as a member of the board.

Vice-chairman of local board.

27. A chairman of a district board or local board may resign by notifying in writing his intention to do so to the Lieutenant-Governor, and on such resignation being accepted shall be deemed to have vacated his office. A vice-chairman of a district board or local board may resign by notifying in writing his intention to do so to the board, and on such resignation being accepted shall be deemed to have vacated his office.

Resignation of chairman and vice-chairman of district board or local board.

28. The Lieutenant-Governor may remove any chairman of a district board or local board from his office if he refuses to act, or becomes incapable of acting, or is declared insolvent, or is convicted of any such offence, or subjected by a Criminal Court to any such order, as, in the opinion of the Lieutenant-Governor, formed after due inquiry, unfits him to be chairman, or, on the application of the board, if he persistently neglects his duty as chairman.

Removal of chairman and vice-chairman of district board or local board.

A district board or local board may remove its vice-chairman from his office if he refuses to act, or becomes incapable of acting, or is declared insolvent, or is convicted of any such offence, or subjected by a Criminal Court to any such order, as, in the opinion of the board, formed after due inquiry, unfits him to be a vice-chairman, or if he persistently neglects his duty as vice-chairman.

29. If a chairman of a district board dies, resigns, is removed or becomes incapable of acting, the Lieutenant-Governor may appoint a chairman, or may direct that a chairman be elected by the members of such board from among their own number, subject to his approval.

Casual vacancies in office of chairman or of vice-chairman of district board or local board.

If a chairman of a local board, or a vice-chairman of a district board or local board, dies, resigns, is removed or becomes incapable of acting, the board shall, at a special meeting held for this purpose within the period prescribed by any rules made by the Lieutenant-Governor under this Act, elect one of its members to be chairman or vice-chairman, as the case may be.

(Part I.—Local Authorities.—Chapter I.—District Boards and Local Boards.—Secs. 30-32.)

A chairman or vice-chairman elected under this section to fill a casual vacancy shall hold office for the residue of his term as member of the board.

Joint Committees.

Joint committees.

30. A district board may join with any other district board or with any municipal [1] or cantonment [2] authority, or with more than one such board, or municipal or cantonment authority, in constituting out of their respective bodies a joint committee for any purpose in which they are jointly interested, and in delegating to any such joint committee any power which might be exercised by either or any of the boards or authorities concerned, and may, from time to time frame rules as to the proceedings of any such joint committee, and as to the conduct of correspondence relating to the purpose for which the joint committee is constituted. [3]

Conduct of Business.

Record and publication of proceedings.

31. Minutes of the proceedings at each meeting of a district board or local board shall be drawn up and recorded in a book to be kept for the purpose, and shall be signed by the chairman of the meeting, and shall be published in such manner as the Lieutenant-Governor may from time to time direct, and shall at all reasonable times and without charge be open to the inspection of any person resident within, or owning or holding land within, the jurisdiction of such board.

Resolutions passed by district board or local board how to be treated.

A copy of every resolution passed by a district board at a meeting shall, within three days from the date of the meeting, be forwarded to the Magistrate of the district for transmission to the Commissioner.

A copy of every resolution passed by a local board at a meeting shall, within three days from the date of the meeting, be forwarded to the district board and to the Magistrate of the district.

Power to make rules as to business and affairs.

32. Every district board, and every local board with the sanction of the district board, may from time to time make rules as to—

- (a) the time and place of its meetings, the business to be transacted at meetings and the manner in which notice of meetings shall be given ;

[1] As to municipal authorities, see the Bengal Municipal Act, 1884 (Ben. Act 3 of 1884), in Vol. III of this Code.

[2] As to cantonment authorities, see the Cantonments Act, 1889 (13 of 1889), in General Acts, 1885-90, Ed. 1898, p. 335.

[3] For a similar section applying to District Boards, see the Bengal Municipal Act, 1884 (Ben. Act 3 of 1884), s. 37A, in Vol. III of this Code.

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(Part I.—Local Authorities.—Chapter I.—District Boards and Local Boards.—Sec. 33.)

- (b) the conduct of proceedings at meetings, the due record of all dissents and discussions, and the adjournment of meetings ;
 - (c) the custody of the common seal and the purposes for which it shall be used ;
 - (d) the division of duties amongst its members ;
 - (e) the powers to be exercised by the chairman or vice-chairman, or by sub-committees or members to whom particular duties are assigned ;
 - (f) the persons by whom receipts shall be granted for money received under this Act ;
 - (g) the duties, appointment, leave, suspension and removal of the officers and servants of the board ; and
 - (h) other similar matters ;
- and may from time to time repeal or alter such rules.

Rules made under this section, consistent with this Act, shall be subject to the sanction of the Lieutenant-Governor, and shall, if sanctioned by him, be published in such manner as he may direct ; and shall have the force of law so long as they are consistent with the rules made by him under this Act.

Establishments.

33. Every district board, subject to the provisions hereinafter contained, may from time to time determine and appoint the establishment to be employed by it, or by any joint committee constituted under section 30, and may fix the salaries to be paid to such establishment :

District board may appoint establishments and fix salaries.

Provided—

- (1) that no appointment, the monthly salary of which amounts to one hundred rupees or more, shall be created or abolished without the approval of the Commissioner, and that every nomination to, and dismissal from, such an appointment shall be subject to confirmation by the Commissioner ;
- (2) that the aggregate salaries and allowances in any one financial year of the establishment employed by any district board for the purpose of heading (D) of Part III of this Act shall not, without the sanction of the Lieutenant-Governor, exceed twenty *per centum* on the total amount available for expenditure by such board upon public works during the financial year ;

(Part I.—Local Authorities—Chapter I.—District Boards and Local Boards.—Chapter II.—Union Committees.—Secs. 34-39.)

(3) that every district board shall conform to any rules made by the Lieutenant-Governor under this Act regarding the qualifications of candidates for employment.

Rules regarding leave of absence and absentee allowances to officers. Pensions and gratuities to be paid out of district fund.

34. A district board may, subject to proviso (2) of the last preceding section, make, from time to time, with the approval of the Commissioner, rules as to leave of absence and absentee allowances for its establishment.

35. A district board may, from time to time, with the sanction of the Lieutenant-Governor, make rules for pensions and gratuities to be granted and paid out of the district fund to its establishment, and may, with the like sanction, repeal or alter such rules.

Union committee may appoint establishment and fix salaries.

36. Every union committee may from time to time determine and appoint the establishment to be employed by it, and may fix the salaries to be paid to such establishment:

Provided that no appointment, the monthly salary of which amounts to ten rupees or more, shall be created without the consent of the local board to which the union committee creating such appointment is subordinate.

CHAPTER II.

UNION COMMITTEES.

Operation of Chapter.

37. No provision contained in this Chapter shall apply to any district, or part of a district, unless and until it has been expressly extended thereto by notification by the Lieutenant-Governor.

Formation of unions.

38. The Lieutenant-Governor may, by order in writing, constitute any village or group of villages into a union [1]; and may prescribe for such union the number of members of which the union committee shall consist. Such number shall not be less than five or more than nine.

It shall be lawful for the Lieutenant-Governor from time to time to vary or annul such order.

Election of members of union committees.

39. Save as is hereinafter provided, such number shall be elected from among the residents of the union, in accordance with rules made by the Lieutenant-Governor under this Act, and shall constitute the union committee of such union.

[1] For a list of Unions constituted under section 38, see Appendix II, post, p. 682.

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SELF-GOVERNMENT ACT OF 1885.

(Part I.—Local Authorities.—Chapter II.—Union Committees.—
Secs. 40-44.)

40. If the electors of any union fail to elect the full number of members prescribed for the committee of such union, the Commissioner may appoint the remainder.

Appointment
on failure to
elect.

41. Notwithstanding anything in this Act contained, it shall be lawful for the Lieutenant-Governor to direct, by order in writing, for reasons to be stated in such order, that any union committee shall consist, either wholly or in part, of members appointed by the Commissioner.

Appointment
in substitution
of
election.

42. The term of office of the members of a union committee shall be two years from the date of their election or appointment, but shall include any period which may elapse between the expiration of the said two years and the date of the next subsequent election or appointment, not being an election or appointment under the next succeeding section.

Term of office
of members.

At the expiration of such term such members may be re-elected or re-appointed.

43. When the place of an elected or appointed member of a union committee becomes vacant by the resignation or death of such member, a new member shall be elected or appointed in the manner hereinbefore provided, and shall hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office, but may be re-elected or re-appointed :

Filling of
casual vacan-
cies.

Provided that no act of the committee or of its officers, or of the committee in meeting, shall be deemed to be invalid by reason only that the number of the committee at the time of the performance of such act was less than the prescribed number.

44. Any union committee may from time to time, with the consent of the local board to which it is subordinate, as hereinafter provided, join with any other union committee or committees in constituting out of their respective bodies a joint union committee for any purpose in which they are jointly interested, and in delegating to any such joint union committee any power which might be exercised by either or any of the union committees, and may from time to time frame rules as to the proceedings of any such joint committee and as to the conduct of correspondence relating to the purpose for which the joint union committee is constituted.

Joint union
committees.

It shall be lawful for the local board to associate not more than two of its members with any joint union committee constituted under this section.

PART II.

FINANCE.

GENERAL.

Lieutenant-Governor may direct that funds of existing local bodies shall be vested in new local authorities,

45. The Lieutenant-Governor may, by notification, direct that all or any portion of the funds vested in any local body existing in [1] [any district in which this Act is in force] shall be vested in any local authority constituted under this Act, immediately upon such local authority being constituted.

CHAPTER I.

District board to fix rate of road-cess annually.

46. A district board, on or before the day prescribed in the rules made by the Lieutenant-Governor under this Act, shall hold a meeting for the purpose of fixing the rate at which the road-cess [2] shall be levied in the district during the ensuing cess year :

Provided that the rate at which the road-cess is levied when this Act comes into force in such district shall not be reduced without the sanction of the Lieutenant-Governor.

Estimates, reports and statements of district board to be submitted to commissioner.

47. Every district board shall submit to the Magistrate of the district, for transmission to the Commissioner, on or before the day prescribed in the rules made by the Lieutenant-Governor under this Act, —

- (1) a statement of the requirements and an estimate of the probable expenditure of the district board for the ensuing financial year,
- (2) a report of its proceedings,
- (3) an account of its receipts and expenditure for the past financial year, and, from time to time, such other reports and accounts as the Commissioner may require.

The Magistrate of the district, when he is not chairman of the board, shall, on or before the day prescribed in the rules made by the Lieutenant-Governor under this Act, signify in writing to the board his approval or disapproval of the statement of requirements and estimate. When he disapproves of the statement of requirements and estimate on the ground that the expenditure on salaries, works or other objects proposed therein appears to be

[1] These words in square brackets in s. 45 were substituted for the words "such district" by the Repealing and Amending Act, 1908 (1 of 1908), Sch. 2, printed in Vol. I, p. 52.

[2] As to the road-cess, see the Cess Act, 1880 (Ben. Act 9 of 1880), in Vol. I, p. 104.

... LOCAL SELF-GOVERNMENT (DISTRICTS). 653
of 1885.] SELF-GOVERNMENT ACT OF 1885.
(Part II.—Finance.—General.—Chapter I.—Secls. 48-51.)

insufficient or excessive, or that any particulars contained therein appear to be erroneous, defective or improper, he shall state the nature of his objection. The board shall then consider his objection, and may modify the statement of requirements and estimate, or signify in writing its reasons for adhering to such statement and estimate; and the Magistrate of the district shall thereupon forward the statement of requirements and estimate to the Commissioner.

48. The Commissioner may either approve of the estimate as it stands, or approve of it after making such alterations therein as may seem to him fit, or may cause it to be returned to the board for such modifications as he may think necessary, and, when such modifications have been made, the estimate shall be re-submitted for ratification to the Commissioner :

Power of Commissioner as to estimates.

Provided that the Commissioner shall not make, and shall not require the district board to make, otherwise than with its own consent, any such alterations as may have the effect of raising the total of such estimate above the total of the sum estimated to be at the disposal of the district board for expenditure during the financial year.

49. Any estimate prepared and approved as hereinbefore provided may, with the approval of the Commissioner, be amended or revised at any time by the district board.

Estimates may be amended or revised.

50. It shall be lawful for a district board, subject to the provisions of any law [1] relating to the raising of loans by local authorities for the time being in force, from time to time to raise loans for the purpose of carrying out any of the provisions of this Act, and to guarantee the payment of interest on such loans, and to form a sinking fund.

District boards may raise loans and may form a sinking fund.

51. Every local board shall submit to the district board annually, on or before such date as the district board may appoint, a statement of the requirements and an estimate of the probable expenditure of the local board for the ensuing financial year, and shall submit, as often as the district board may require, accounts of its receipts and expenditure.

Estimates and audit of accounts of local boards.

The district board may approve such estimate or may make such alterations therein as it thinks fit.

The district board shall make arrangements, subject to the approval of the Commissioner, for the examination and audit of accounts submitted to it under this section, and may direct the publication of such accounts.

[1] For a list of Acts relating to loans to local authorities, see foot-note on p. 639, ante.

CHAPTER II.

THE DISTRICT FUND.

Constitution
of district
fund.

52. There shall be formed for each district a fund to be called the "district fund," and there shall be placed to the credit thereof—

- (1) the balance of the district road fund of the district, after payment of the expenses mentioned in section 109 [1] of the Cess Act, 1880, as amended by this Act; Ben. Act 9 of 1880.
- (2) all sums levied within the district as fines, penalties or otherwise under this Act;
- (3) all sums accruing within the district, under the provisions of the Cattle-trespass Act, 1871, [2] from pounds which have not been, 1 of 1871. transferred to any union committee under section 111 of this Act;
- (4) all receipts in respect of public ferries within or on the boundary of the district which have been placed under the management of the district board under the provisions of the Bengal Ferries Act, 1885 [3]; Ben. Act 1 of 1885.
- (5) all receipts in respect of any schools, hospitals, dispensaries, railways, tramways or other buildings, institutions or works, which may have been constructed by, vested in or placed under the control and administration of a district board under Part III of this Act;
- (6) all sums which may be allotted to the district board from the provincial revenues by the Lieutenant-Governor for any of the purposes mentioned in Part III of this Act, or for any other purpose;
- (7) all sums contributed to the district board by local bodies or private persons.

District fund
to be vested
in board.

The district fund shall be vested in the district board, and the balance standing to the credit of the fund shall be kept in such custody as the Lieutenant-Governor from time to time directs.

Application
of district
fund.

53. The district fund shall be applicable to the following objects, and in the following order:—

Firstly.—To the payment of any sums which the district board may be liable to pay as interest upon loans raised by it under section 50 for the purposes of this Act, and to the formation of a sinking fund, when required.

[1] Printed in Vol. I of this Code, p. 143.

[2] See Act 1 of 1871, s. 81 (in General Acts, 1868-76, Ed. 1898, [p. 192]), which empowers the Local Government to direct that the surplus accruing in any district under section 18 of that Act shall be placed to the credit of a local fund.

[3] As to the management of public ferries by District Boards, see the Bengal Ferries Act, 1885 (Ben. Act 1 of 1885), s. 35, in Vol. I, p. 581.

... LOCAL SELF-GOVERNMENT (DISTRICTS).
[1885.] SELF-GOVERNMENT ACT OF 1885.

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(Part II.—Finance.—Chapter II.—The District Fund.—Sec. 53.)

Secondly.—To the payment of any sums which the district board may
• under this Act from time to time have undertaken to pay as interest on capital expended on any works which may directly improve the means of communication within the district or between such district and other districts.

Thirdly.—To the payment of such percentage as the Lieutenant-Governor may from time to time direct towards the cost of audit, and towards the cost of establishments in any office of account or in any treasury :

Provided that the total amount which any district board may be required to pay on this account shall not in any year exceed two *per centum* on the whole amount of the district fund for such year.

Fourthly.—To the payment of the salaries of the establishments employed by the district board for the purposes of this Act, and of any pensions and gratuities granted under section 3 and section 35, and to the payment to the Government of such percentage as the Lieutenant-Governor may, from time to time, direct on the salaries of such establishments in consideration of the Government undertaking to pay the leave and pension allowances of such establishments.

Fifthly.—To the payment of expenses incurred by the district board in the performance of the duties imposed by this Act, and in the construction, repair and maintenance of any works which may become vested in, or be placed under the control and administration of, such Board under Part III of this Act.

Sixthly.—To the payment, at such rates as the Lieutenant-Governor may direct, of the travelling expenses incurred by members of the district board in attending meetings of the board or meetings of a joint committee.

Seventhly.—To the payment of expenses incurred by the district board under section 80 of this Act.

Eighthly.—To investment in any local debenture loans issued by the Government of India or by any municipal authority or local authority, for the construction of public works which may directly improve the means of communication within the district or between such district and other districts :

Provided—

- (1) that no sum shall be expended from the district fund in the construction of any channel for the purposes of irrigation ;
or for the purposes of drainage connected with any irrigation-works in charge of public officers ;
or for the improvement or maintenance of any water-channel on which tolls are levied, when no portion of the proceeds of such tolls is paid into the district fund ;
- (2) that no part of the district fund shall be applied to the construction, repair or maintenance of any road within any municipality which has been, or may hereafter be, constituted under the Bengal Municipal Act, 1884, [1] unless such road shall have been expressly excluded from the operation of the said Act under section 30 thereof.

Ben. Ac
of 1884.

Accounts of
district fund
how to be
kept and
published.

54. Account-books of the district fund shall be kept by an officer to be appointed by the district board.

An account showing the receipts and expenditure during the quarter, arranged under the proper heads and duly balanced, shall be prepared immediately after the close of each quarter and published in such manner as the Lieutenant-Governor directs, and any person resident in or owning or holding land in the district may at all reasonable times inspect any such account without payment of a fee.

A similar account showing the income of the district fund under each head of receipt, the charges of establishment, the works undertaken, the sums expended on each work, and the balance, if any, of the fund remaining unspent at the end of the year, shall be prepared for each financial year as soon as possible after its close, and shall be open to inspection as aforesaid.

Finance
committee.

55. Every district board shall appoint a finance committee consisting of so many members as it thinks fit.

Its duties.

It shall be the duty of such committee to prepare the statements, estimates and accounts required for submission under section 47, and generally to superintend all matters connected with the finances and accounts of the district board.

The finance committee shall at all times, when required so to do, produce its accounts for audit by any officer who may be appointed by the Lieutenant-Governor in that behalf.

[1885.]

SELF-GOVERNMENT ACT OF 1885.

(Part II.—Finance.—Chapter III.—The Union Fund.—Secs. 56-58.)

CHAPTER III.

THE UNION FUND.

56. There shall be formed for each union a fund to be called the "union fund," and there shall be placed to the credit thereof—

Constitution
of union
fund.

1 of 1871.

- (1) all sums accruing within the union under the Cattle-trespass Act, 1871^[1];
- (2) all sums assigned thereto by the Lieutenant-Governor or district board, whether as a contribution towards the cost of making village roads or otherwise;
- (3) all other sums received by the union committee in the execution of this Act.

The union fund shall be vested in the union committee, and the balance standing to the credit of the fund shall be kept in such custody as the Lieutenant-Governor from time to time directs.

Union fund
to be vested
in union
committee.

57. The union fund shall be applicable to the following objects, and in the following order :—

Application
of union
fund.

- (1) to the payment of establishments employed, and expenses incurred, by the union committee for the purposes of this Act;
- (2) to the payment of the expenses incurred by the union committee in respect of the duties imposed, and powers conferred, upon it under Part III of this Act, and of any expenses that may be incurred through its default in carrying out any of such duties.

58. Account-books of the union fund shall be kept by an officer to be appointed by the union committee.

Accounts
of union fund
how to be
kept and
published.

An account showing the receipts and expenditure during the quarter, arranged under the proper heads and duly balanced, shall be prepared immediately after the close of each quarter and published in such manner as the Lieutenant-Governor directs, and any person resident in or owning or holding land in the union may at all reasonable times inspect any such account without payment of a fee.

A similar account showing the income of the union fund under each head of receipt, the charges of establishment, the works undertaken, the sums expended on each work, and the balance, if any, of the fund remaining unspent at the end of the year, shall be prepared for each financial year as soon as possible after its close, and shall be open to inspection as aforesaid.

Copies of the quarterly and yearly accounts shall be submitted to the local board to which such union committee is subordinate.

[1] See Act 1 of 1871, s. 31 (in General Acts, 1868-76, Ed. 1898, p. 192), which empowers the Local Government to direct that the surplus accruing in any district under section 18 of that Act shall be placed to the credit of a local fund.

PART III.

DUTIES AND POWERS OF LOCAL AUTHORITIES.

CHAPTER I.

DUTIES AND POWERS OF DISTRICT BOARDS.

Operation of provisions included under headings A to D. Operation of provisions included under headings E to I.

59. The provisions included under the headings A to D (both inclusive) of this Chapter shall be in force as regards every district board, unless and until the Lieutenant-Governor shall otherwise direct.

60. No provision included under the headings E to I (both inclusive) of this Chapter shall apply to any district board, unless and until it has been expressly extended thereto by notification by the Lieutenant-Governor.

A.—Pounds.

Powers of district board in respect of pounds.

61. Every district board shall exercise such powers in regard to the establishment, maintenance and management of pounds as may be transferred to it by order notified under Act 18 of 1883. [1]

B.—Education.

Primary and middle schools under public management.

62. Subject to any rules made by the Lieutenant-Governor under this Act, every district board shall be charged with, and be responsible for, the maintenance and management of all primary and middle schools under public management within the district, the construction and repair of all buildings connected therewith, the appointment (subject to the provisions of section 83) of all masters and assistant masters thereof, and the payment of the salaries of such masters and assistant masters :

Provided that nothing contained in this section shall be held to apply to schools for the education of Europeans and Eurasians.

Other schools.

63. Subject to any rules made by the Lieutenant-Governor under this Act, a district board may with its own consent be charged with, and made responsible for, the maintenance and management of any other schools or class of schools within the district.

[1] Act 18 of 1883 was repealed by the Cattle-trespass Act (1871) Amendment Act, 1891 (1 of 1891), s. 10, which declared that orders which had been made and notified under the Act of 1883 by the Local Government, and were in force immediately before the commencement of the Act of 1891, should be deemed to have been made under the Cattle-trespass Act, 1871 (1 of 1871), as amended by Act 1 of 1891.

As to the transfer to local authorities of functions of the Local Government, or the District Magistrate under the Cattle-trespass Act, 1871, see s. 81 of that Act, in General Acts, 1887-79, Bd. 1893, p. 192.

of 1885.]

SELF-GOVERNMENT ACT OF 1884.

(Part III.—*Duties and Powers of Local Authorities.*—Chapter I.—*Duties and Powers of District Boards.*—Secs. 64-67.)

Beng. Act 9 of 1884.

64. It shall be lawful for the Lieutenant-Governor to declare that the maintenance and management of any High English school under public management, situated within a town which has been or may hereafter be constituted a municipality under the Bengal Municipal Act, 1884, [1] shall be entrusted to a joint committee, consisting partly of members delegated by the commissioners of such municipality and partly of members delegated by such district boards as may be named in the order.

High English schools.

Every order issued under this section shall specify the number of members to be delegated, and the proportion of the cost of maintenance of the school to be provided, by each of the local authorities and the municipal authority named therein.

Every joint committee appointed under this section shall, in respect of any such school, have the same powers and be subject to the same liabilities as are by this heading conferred and imposed on district boards.

65. It shall be lawful for the Lieutenant-Governor from time to time to transfer to a district board such funds as he may deem necessary for expenditure on the improvement of primary schools within the district under private management. And, subject to any rules made by the Lieutenant-Governor under this Act, the board shall be charged with, and be responsible for, the proper distribution of such funds.

Primary schools under private management.

C.—*Medical.*

66. It shall be lawful for the Lieutenant-Governor from time to time to direct by notification that any public charitable dispensary or hospital within a district shall be under the control and administration of the district board. And the district board shall thereupon be charged with the control and administration thereof, and the construction and repair of all buildings connected therewith.

District board to have control and administration of public charitable dispensaries or hospitals within the district.

The Lieutenant-Governor may at any time vary or annul any order made under this section.

67. A district board may provide, for the use of the inhabitants of the district, dispensaries, hospitals or temporary places for the reception of the sick, and for that purpose may—

District board may establish and maintain dispensaries and hospitals.

itself build such dispensaries, hospitals or places of reception; or contract for the use of any such dispensary, hospital or place of reception, or of any part thereof; or

(Part III.—Duties and Powers of Local Authorities.—Chapter I.—Duties and Powers of District Boards.—Secs. 68-73.)

enter into any agreement with any person having the management of any hospital for the reception of the sick inhabitants of the district, on payment of such annual or other sum as may be agreed on,

Two or more district boards may combine to establish dispensaries.

68. Two or more district boards may, with the approval of the Commissioner or commissioners, combine in providing a common dispensary, hospital or place for the reception of the sick, and, with the like approval, fix the proportions of the cost thereof to be borne by them respectively.

District board may contribute to cost of maintenance of dispensary or hospital outside district.

69. A district board may, with the approval of the Commissioner, contribute such annual or other sum as may be agreed on towards the cost of the maintenance of any dispensary or hospital which is situated outside the district, but is habitually used by the inhabitants of the district,

Power to provide temporary supply of medicine and medical assistance. District board to conform to rules made by Lieutenant-Governor.

70. A district board may, with the approval of the Commissioner, provide, or contract with any person to provide, a temporary supply of medicine and medical assistance for the poorer inhabitants of the district.

District board to submit return of births and deaths to Magistrates.

71. Every district board, in exercising powers vested in it by the five last preceding sections, shall conform to any rules made by the Lieutenant-Governor under this Act.

72. It shall be the duty of the district board to submit such returns of births and deaths [1] as the Magistrate of the district may from time to time require in respect of all areas to which the provisions of Part I, Chapter II, have been extended.

D.—Public Works.

Transfer to district boards of roads and other property of district road committee.

73. From and after the establishment of a district board in any district, all roads, bridges, channels, buildings and other property, moveable or immoveable, held by, or under the control and administration of, the district road committee or any branch committee in such district for the purposes of the Cess Act, 1880, [2] shall, for the purposes of this Act, be under the control and administration of such district board;

Ben. Act 9 of 1880.

Village-roads stopped.

Provided that all village-roads within the limits of any union established in the said district shall be under the control and administration of the union committee.

[1] As to the registration of births and deaths, see the Bengal Births and Deaths Registration Act, 1878 (Ben. Act 4 of 1878), in Vol. IV of this Code.

[2] Printed in Vol. I of this Code, p. 104.

[1885.]

SELF-GOVERNMENT ACT OF 1885.

(Part III.—Duties and Powers of Local Authorities.—Chapter I.—Duties and Powers of District Boards.—Secs. 74-79.)

74. It shall be lawful for the Lieutenant-Governor from time to time to direct that any road, bridge, channel, building or other property, moveable or immovable, which is vested in Government and which is situated within a district shall, with the consent of the district board of such district, and subject to such exceptions and conditions as the Lieutenant-Governor may make and impose, be placed under the control and administration of the district board for the purposes of this Act, and thereupon such road, bridge, channel, building or other property shall be under the control and administration of the district board, subject to all exceptions and conditions so made and imposed and to all charges and liabilities affecting the same.

Government may place other property under district boards.

75. Every road, building or other work constructed by a district board from the district fund shall be vested in the district board by which it has been constructed.

Works constructed by district board to be vested in it.

76. A district board may agree with the person in whom the property in any road, bridge, tank, ghât, well, channel or drain is vested to take over the property therein, and after such agreement may declare, by notice in writing put up thereon or near thereto, that such road, bridge, tank, ghât, well, channel or drain has been transferred to the district board.

District board may, with consent of owners, take over and repair works.

Thereupon the property therein shall be vested in the district board, and such road, bridge, tank, ghât, well, channel or drain shall thenceforth be repaired and maintained out of the district fund.

77. Every district board shall, at such times and in such form as the Commissioner may direct, submit a schedule of all public works subject to the control of, or vested in, such district board.

District board to submit schedules of public works.

78. It shall be the duty of every district board to provide for the repair and maintenance of roads, bridges, water-channels and other works for directly improving communications which have been taken charge of by the district board under this Act, or towards which it may have agreed to contribute; and for the construction of new roads, bridges, water-channels and other means of communication.

District board to repair and maintain works.

79. It shall be lawful for a district board to take measures for, or to contribute towards,

Miscellaneous improvements.

the construction, repair and maintenance of any works which may directly improve the means of communication within the district or between the district and other districts;
the planting of trees by the roadside; and

(Part III.—Duties and Powers of Local Authorities.—Chapter I.—Duties and Powers of District Boards.—Secs. 80-85.)

the construction and maintenance of any means and appliances for improving the supply of drinking-water, or for providing or improving drainage.

District board may construct and maintain railways or tramways.

80. It shall be lawful for a district board, with the sanction of the Lieutenant-Governor, either singly or in combination with any municipal authority or any other local authority, to construct and maintain within, or partly within and partly without, its own district, a railway or tramway under the provisions of any law [1] for governing the construction of railways or tramways for the time being in force in Bengal, and to do all lawful acts which may be necessary in that behalf.

District board may subscribe to debenture loan to construct and maintain railways or tramways.

81. It shall be lawful for a district board, with the sanction of the Lieutenant-Governor, to subscribe to any debenture loan raised by the Government of India or by any municipal authority or local authority for the construction or maintenance of any railway or tramway which, in the opinion of such district board, is likely to be of direct benefit to the district.

District board may guarantee interest on capital expended on works of communication.

82. It shall be lawful for the district board, with the sanction of the Lieutenant-Governor, from time to time to guarantee the payment from the district fund of such sums as it shall think fit as interest on capital expended on any railways, tramways or other works which may directly improve the means of communication within the district or between the district and other districts.

District boards may undertake construction, repair and maintenance of Government buildings.

83. It shall be lawful for a district board from time to time to undertake, on behalf of the Government, and upon such conditions as may be agreed upon, the construction, repair and maintenance of any public building or other work which is the property of the Government:

Provided that the cost of such construction, repair or maintenance shall be defrayed by the Government.

District board may appoint engineer and his subordinates.

84. Subject to the provisions of section 33 and to any rules made by the Lieutenant-Governor under this Act, every district board shall appoint a properly qualified person to be its engineer, and such and so many subordinate officers under his orders as it may think necessary.

Duties of district engineer.

85. It shall be the duty of the district engineer to prepare all plans, designs, specifications and estimates which the district board may require, to carry out such works as it may direct, and to conform generally to all rules

[1] As to railways, see the Indian Railways Act, 1825 (9 of 1825), in General Acts, 1825-26, Ed. 1698, p. 410. As to tramways, see the Bengal Tramways Act, 1883 (Ben. Act 8 of 1883), in Vol. IV of this Code.

[1935.]

SELF-GOVERNMENT ACT OF 1885.

(Part III.—Duties and Powers of Local Authorities.—Chapter I.—Duties and Powers of District Boards.—Secs. 86-91.)

that may be made by the district board under section 82 or by the Lieutenant-Governor under section 138.

86. The powers of the district board under sections 78 and 79 shall be subject to any rules made by the Lieutenant-Governor under this Act regarding the submission for approval of plans, designs, specifications and estimates.

Powers of boards under sections 78 and 79 to be subject to rules for approval of plans.

E.—Sanitation.

87. It shall be the duty of every district board, subject to any rules made by the Lieutenant-Governor under this Act, to provide, so far as may be possible, for the proper sanitation of its district, and to incur such expenses or undertake such liabilities as may be necessary in that behalf.

District board to provide for sanitation.

88. A district board may, with the approval of, and subject to such limits of cost as shall be imposed by, the Commissioner, provide any place within its district with a proper and sufficient supply of water, and for this purpose may—

General powers for supplying district with water.

- (1) construct, repair and maintain water-works, wells or tanks, and do any other necessary acts;
- (2) take on lease or hire any water-works and purchase any water-works, or any water, or right to take or convey water, either within or without its district; and
- (3) contract with any person for a supply of water.

89. All streams, channels, water-courses, tanks, reservoirs, springs and wells situated within the district, and not being private property or under the control of any officer of the Government, shall, for the purposes of this Act, be under the control and administration of the district board.

Public streams, channels, water-courses, tanks, reservoirs, springs and wells to be under control of district board.

90. The district board may, by an order duly published at such places and in such manner as it may deem fit, set apart convenient tanks, parts of rivers, streams or channels situated within the district, and not being private property or under the control of any officer of the Government, for the supply of water for drinking and for culinary purposes; and, from the date of publication of such order, such tanks, parts of rivers, streams or channels shall be held to be public springs or reservoirs.

District board may set apart tanks, parts of rivers, streams or channels for drinking and culinary purposes.

91. It shall be lawful for a district board to appoint a properly qualified person to be its sanitary inspector, and, subject to the provisions of section 38,

District board to appoint sanitary inspector.

LOCAL SELF-GOVERNMENT (DISTRICTS).

THE BENGAL LOCAL

[Ben. Act 8

(Part III.—Duties and Powers of Local Authorities.—Chapter I.—Duties and Powers of District Boards.—Secs. 92-98.)

fix the salary of such sanitary inspector, and the details of the establishment subordinate to him.

F.—Vaccination.

District board to have supervision of vaccinators within their districts. District board to appoint inspectors of vaccination.

92. Every district board shall, within its district, be charged with the appointment, payment, management and supervision of all public vaccinators.

93. Every district board shall appoint a properly qualified person to be inspector of vaccination within its district, and shall, subject to the provisions of section 33, fix the salary to be paid to such person.

Every inspector of vaccination appointed under this section shall, within the district, exercise the powers and perform the duties assigned to the Superintendent of Vaccination under the Bengal Vaccination Act, 1880. [1]

Ben. Act 5 of 1880.

District board to have powers of Magistrate in district to which the Vaccination Act extends.

94. In every district to which the Bengal Vaccination Act, 1880, [1] has been, or may hereafter be, extended, the district board shall have the powers of the Magistrate of the district under section 25 of the said Act.

Commissioner to make rules for guidance of district boards.

95. The Commissioner may, with the sanction of the Lieutenant-Governor, make rules consistent with this Act, and with the Bengal Vaccination Act, 1880, [1] for the guidance of every district board in the exercise of the powers conferred under the three last preceding sections, and may from time to time, with the like sanction, repeal or alter such rules.

Act to be read with the Bengal Vaccination Act.

96. The four last preceding sections, so far as is consistent with the tenor thereof, shall be read with, and form a part of, the Bengal Vaccination Act, 1880. [1]

G.—Census.

Commissioner may direct district board to take a census.

97. It shall be lawful for the Commissioner, with the sanction of the Lieutenant-Governor, at any time to require a district board to take an account of the number of persons who, at the time of taking such account, shall be within the district of such district board:

Provided that no part of the cost incurred in taking such account shall be charged upon, or be defrayed out of, the district fund.

Powers for taking census.

98. Every district board which shall be required to take an account under the last preceding section shall, in taking such account, conform to any rules

of 1885.]

SELF-GOVERNMENT ACT OF 1888.

(Part III.—Duties and Powers of Local Authorities.—Chapter I.—Duties and Powers of District Boards.—Chapter II.—Duties and Powers of Local Boards.—Secs. 99-101.)

made by the Lieutenant-Governor under this Act, and to the provisions of any Act, for the time being in force for regulating the taking of a census.

H.—Famine-relief.

99. It shall be lawful for a district board, subject to such limit of expenditure as may be prescribed by the Commissioner, to take such measures as it thinks fit for the relief of famine within its district, and for that purpose to—

District board may take relief measures in case of famine.

- (1) open and maintain such relief works as may be necessary ;
- (2) open and maintain such temporary hospitals, poor-houses, orphanages and places for the gratuitous distribution of food as may be necessary ;
- (3) employ such extra medical or other assistance as may be necessary.

I.—Miscellaneous.

100. It shall be lawful for a district board, with the approval of the Commissioner, and subject to any rules made by the Lieutenant-Governor under this Act, to—

Miscellaneous powers of district board.

- (1) establish and maintain, at such places within its district as it thinks fit, staging bungalows and sarais for the use of travellers, and charge such fees for the use of such bungalows and sarais as it thinks fit :

Staging bungalows and sarais.

Provided that such fees shall in no case exceed the amount prescribed by the Commissioner ;

- (2) offer rewards, upon such scale as may be approved by the Commissioner, for the destruction of noxious animals within the district ;
- (3) hold, within its district, from time to time, fairs and exhibitions of cattle, country produce and agricultural implements, or local manufactures, and incur such expenditure and charge such fees in connection therewith as may, from time to time, be approved by the Commissioner ;
- (4) undertake and carry out any other local work likely to promote the health, comfort or convenience of the public, and not otherwise provided for by this Act.

Rewards for destruction of noxious animals.

Fairs and exhibitions.

Works not otherwise provided for

CHAPTER II.

DUTIES AND POWERS OF LOCAL BOARDS.

101. The Lieutenant-Governor, or, subject to his control, a district

Duties of local board.

LOCAL SELF-GOVERNMENT (DISTRICTS).

THE BENGAL LOCAL

[Ben. Act 8

(Part III.—Duties and Powers of Local Authorities.—Chapter II.—Duties and Powers of Local Boards.—Chapter III.—Duties and Powers of Union Committees.—Secs. 102-106.)

board, may direct that within the area subject to the authority of a local board, any matter placed under the control and administration of the district board under this Act shall be wholly or partly transferred to the control and administration of the local board, with adequate funds for the purposes of such control and administration.

A local board, as the agent of, and subject to the control of, the district board, shall, so far as the funds at its disposal permit, make due provision for all matters transferred to its control and administration under this section.

It shall be the duty of the district board to enforce the responsibility imposed on a local board by this section.

Limits on expenditure of local board.

102. Except as otherwise provided by this Act, a local board shall not incur expenses, or undertake liabilities, to any amount exceeding the limit imposed by the district board.

Local board to supervise and control union committees.

103. A local board shall exercise powers of supervision and control over all union committees within the area under its authority, and it shall be the duty of the local board to procure and submit, in such form as the district board may prescribe, all such reports, returns and statistics as the district board may from time to time require.

CHAPTER III.

DUTIES AND POWERS OF UNION COMMITTEES.

Union committee to be subordinate to local board.

104. A union committee as the agent of, and subject to the control of, the local board, shall, within the union, have the control and administration of, and be responsible for, all matters specified in this Chapter, except such of those matters as the local board may think fit, to take under its direct control and administration.

Union committee to submit reports, estimates and accounts to local board.

105. Every union committee shall submit annually to the local board, on or before such date as the local board may appoint, an estimate of the probable expenditure of the committee for the ensuing financial year, and an account of its receipts and expenditure for the past financial year, and shall also submit any other reports which the local board may from time to time require.

Limits on expenditure of union committee.

106. A union committee shall not incur expenses, or undertake liabilities, to any amount exceeding the limit imposed by the local board.

[1885.]

SELF-GOVERNMENT ACT OF 1883.

(Part III.—Duties and Powers of Local Authorities.—Chapter III.—Duties and Powers of Union Committees.—Secs. 107-112.)

107. Every union committee shall, within such time as the local board may direct, forward to such local board a schedule of all village-roads within the union.

Union committee to send schedule of roads to local boards.

Such schedule shall state the length and width of the roads, the number, description and dimensions of bridges, and such other particulars as the local board may require.

108. All village-roads within a union, and the stones and other materials thereof, and also all erections, materials, implements and other things provided for such roads, shall be placed under the control and administration of the union committee.

Village-roads placed under control and administration of union committee.

109. A union committee shall, so far as the union fund permits, from time to time cause the village-roads to be maintained and repaired, and may do all things necessary for such purpose, and may—

Maintenance and repair of village-roads.

(a) lay out and make new village-roads ;

(b) build and construct new bridges ;

(c) turn, divert, discontinue or stop up any village-road ; and

(d) widen, open, enlarge or otherwise improve any such road.

110. The local board may, with the consent of a union committee, delegate to such committee the management of so much of any road under the management of the local board as may be situated within such union, and such union committee shall thereupon do all things necessary for the maintenance and repair of the portion of road so assigned to it, and shall be responsible to the local board in that behalf.

Local board may delegate management of portions of district roads to union committee.

111. Every union committee shall exercise such powers in regard to the establishment, maintenance and management of pounds as may be transferred to it by order notified under Act 18 of 1883. [1]

Powers of union committee in respect of pounds. Primary schools.

112. Subject to any rules made by the Lieutenant-Governor under this Act, every union committee shall be charged with, and be responsible for, the maintenance and management of all primary schools within the union, the appointment (subject to section 36) of the gurus of such schools, and the transmission to such gurus of any rewards that may be granted by the district board or local board.

[1] Act 18 of 1883 was repealed by the Cattle-trespass Act, (1871) Amendment Act, 1891 (1 of 1891), s. 10, which declared that orders, which had been made and notified under the Act of 1883 by the Local Government, and were in force immediately before the commencement of the Act of 1891, should be deemed to have been made under the Cattle-trespass Act, 1871 (1 of 1871), as amended by Act 1 of 1891.

As to the transfer to local authorities of functions of the Local Government or the District Magistrate under the Cattle-trespass Act, 1871, see s. 81 of that Act, in General Acts, 1897-78, Ed. 1898, p. 192.

LOCAL SELF-GOVERNMENT (DISTRICTS).

THE BENGAL LOCAL

[Ben. Act 8

(Part III.—Duties and Powers of Local Authorities.—Chapter III.—Duties and Powers of Union Committees.—Secs. 113-119.)

Dispensaries.

113. Subject to any rules made by the Lieutenant-Governor under this Act, a union committee may, with its own consent, be charged with, and made responsible for, the maintenance, management and visiting of any dispensary within the union.

Registration of vital statistics.

114. Every union committee shall provide for the registration of births and deaths [1] within the union, and shall submit such returns as the local board may direct.

Sanitation.

115. Every union committee shall provide, as far as possible, for the sanitation of the union, and shall make special arrangements for the sanitation of fairs and melas.

Drains and other conservancy-works under control of union committee.

116. All drains and other conservancy-works within the union, which are not under the control of any other authority, shall be under the control of the union committee.

Local board may delegate execution of works of improvement to union committee.

117. The local board may, with the consent of a union committee, delegate to such committee the execution of any work of sanitation, drainage or water-supply affecting the union.

Union committee may cleanse or repair public tanks.

118. A union committee may cleanse or repair any public tank, stream, well or drain within the union, and charge the cost of such cleansing or repairing, which shall in no case exceed a sum of one hundred rupees, to the union fund, or, if such fund be not sufficient, may levy such cost from persons resident within the union in the manner provided for the levying of the chaukidari-tax under the Bengal Village Chaukidari Acts of 1870 [2] and 1871, [2] or any other Act for the time being in force.

Ben. Act 6 of 1870.

Ben. Act 1 of 1871.

Tanks, streams or wells so cleansed or repaired to remain under control of union committee.

119. Any public tank, stream or well which the union committee may have cleansed or repaired under the last preceding section shall remain under the control and administration of the union committee; and the union committee may, by an order duly published in the village or villages in which such public tank, stream or well is situated, set apart the same for the supply of water for drinking and culinary purposes.

[1] As to the registration of births and deaths, see the Bengal Births and Deaths Registration Act, 1873 (4 of 1873), in Vol. IV of this Code.

[2] Printed in Vol. IV of this Code.

[1885.]

SELF-GOVERNMENT ACT OF 1885.

(Part IV.—Control.—Secs. 120-124.)

PART IV.

CONTROL.

120. It shall be the duty of the Lieutenant-Governor and of all Commissioners and Magistrates of districts, acting under the orders of the Lieutenant-Governor, to see that the proceedings of local authorities are in conformity with law and with the rules in force thereunder. The Lieutenant-Governor may, by order in writing, annul any proceeding which he considers not to be in conformity with law and with the said rules, and may do all things necessary to secure such conformity.

Powers of Lieutenant-Governor and of Commissioners and of Magistrates of districts with respect to proceedings of local authorities. Records to be open for inspection of Commissioner or of Magistrate of district.

121. Every local authority shall at all times permit the Commissioner or the Magistrate of the district to have access to all its books, proceedings and records,

122. The Commissioner or the Magistrate of the district shall have power at all times to enter on and inspect, or cause to be entered on and inspected, any immoveable property occupied by, or any work in progress under the orders of, or any institution controlled by, a local authority.

Power of Commissioner or of Magistrate to inspect works.

123. It shall be lawful for the Lieutenant-Governor to appoint an officer to be inspector of local works in each Commissioner's division, or in more than one such division, and to sanction an establishment for such officer.

Appointment of inspector of local works, and duties to be performed by him.

It shall be the duty of the inspector of local works to inspect and advise with regard to all public works under construction or repair vested in, or in charge of, any local authority within the division.

The inspector of local works shall also perform such duties and exercise such powers as may be assigned to him by any rules made by the Lieutenant-Governor under this Act.

The inspector of local works may at all times enter upon, or cause to be entered upon, any immoveable property belonging to any local authority in the division, or any work in progress under its direction, and may require it to furnish such statements, -estimates and reports as he thinks fit. A report of every inspection shall be prepared and a copy thereof forwarded to the district board concerned, through the Magistrate of the district.

In all matters of professional detail the local authority shall be guided by the report of the inspector of local works.

124. The Magistrate of the district, or the Commissioner, may, by order in writing, suspend the execution of any order or resolution of a local

Power to suspend action of

Local author-
ities by
Magistrate of
district and
Commissi-
oner.

Power to
provide for
performance
of duties in
case of default
by district
board.

Extraordinary
powers in
case of emer-
gency.

Magistrate's
order under
sections
125 and 126
to be reported
to Commis-
sioner, who
may confirm,
modify or
revoke the
Commissioner's
power to be

authority within the jurisdiction of such Magistrate or Commissioner, or the doing of any act which is about to be done, or is being done, 'by' such local authority, if in his opinion the execution of the resolution or order, or the doing of the act, is likely to cause injury or annoyance to the public, or to any class or body of persons, or to lead to a breach of the peace.

125. When the Commissioner is informed, on complaint made or otherwise, that a district board has made default in performing any duty imposed on it by or under this Act, the Commissioner, if satisfied, after due inquiry, that such district board has made default as alleged, may, by order in writing, fix a period for the performance of that duty.

If that duty is not performed within the period so fixed, the Commissioner may appoint some person to perform it, and may direct that the expense of performing it, with a reasonable remuneration to the person appointed to perform it, shall be forthwith paid by the district board.

If the expense and remuneration are not so paid, the Commissioner may make an order directing the person having the custody of the balance of the district fund to pay the expense and remuneration, or as much thereof as is possible, from that balance: and such person shall make payment accordingly.

126. In case of emergency the Magistrate of the district may provide for the execution of any work, or the doing of any act, which a local authority is empowered to execute or do, and the immediate execution or doing of which is in his opinion necessary for the service or safety of the public, and may direct that the expense of executing the work or doing the act, with a reasonable remuneration to the person appointed to execute or do it, shall be forthwith paid by the district board.

If the expense and remuneration are not so paid, the Magistrate may make an order directing the person having the custody of the balance of the district fund to pay the expense and remuneration, or as much thereof as is possible, from that balance; and such person shall make payment accordingly.

127. When the Magistrate of the district makes any order under sections 124 or 126, he shall forthwith submit to the Commissioner a copy of the order, with a statement of his reasons for making it, and with any explanation which the local authority concerned may wish to offer, and the Commissioner may thereupon confirm, modify or revoke the order.

128. In every case under the last preceding section in which the Commissioner confirms or modifies any order, he shall forthwith submit to the

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SELF-GOVERNMENT ACT OF 1885.

(Part IV.—Control.—Secs. 129-139.)

Lieutenant-Governor a copy of the proceedings, and the Lieutenant-Governor may thereupon confirm, modify or rescind the order of the Commissioner.

submitted to Lieutenant-Governor for final orders,

129. When the Commissioner makes any order under sections 124 or 125, he shall forthwith submit to the Lieutenant-Governor a copy of the order, with a statement of his reasons for making it, and with any explanation which the local authority concerned may wish to offer, and the Lieutenant-Governor may thereupon confirm, modify or rescind the order.

Commissioner's orders under sections 124 and 125 to be submitted to Lieutenant-Governor.

130. All powers conferred upon Commissioners and Magistrates of districts in regard to district boards by sections 124 and 126 shall be exercised in respect of a union committee by the local board, and in respect of a local board by the district board.

Powers and duties of Commissioner and Magistrate of district transferred to district board and local board.

When a local board makes any order under this section, it shall forthwith submit to the district board a copy of the order with a statement of its reasons for making it, and with any explanation which the union committee concerned may wish to offer. The district board may thereupon confirm, modify or rescind the order.

When a district board makes any order under this section, it shall forthwith submit to the Magistrate of the district, for submission to the Commissioner, a copy of the order, with a statement of its reasons for making it, and with any explanation which the local board may wish to offer. If the Commissioner is dissatisfied with the order, he may report the matter to the Lieutenant-Governor, who may thereupon confirm, modify or rescind the order.

131. If a district board or local board is not competent to perform or persistently makes default in the performance of the duties imposed on it by or under this or any other Act, or exceeds or abuses its powers, the Lieutenant-Governor may, by notification, specifying the reason for so doing, supersede such district board or local board for a period to be specified in such notification.

Power of Lieutenant-Governor to supersede district board or local board in case of incompetency or wilful neglect of duty. Consequences of supersession.

132. When a district board or local board is superseded under the last preceding section, the following consequences shall ensue:—

(a) all members constituting the district board or local board shall from the date of the notification vacate their offices as such members;

(b) all powers and duties of the district board or local board may, until such district board or local board is re-constituted, be exercised and

LOCAL SELF-GOVERNMENT (DISTRICTS).

THE BENGAL LOCAL

[Ben. Act 3

(Part IV.—Control.—Secs. 133-137.)

performed by such person or persons as the Lieutenant-Governor may from time to time appoint in that behalf ;

- (c) when a district board is superseded, all property vested in it shall, pending the re-constitution of the board, be vested in the Lieutenant-Governor.

On the expiration of the period of supersession specified in the notification, the board shall be re-established, and the persons who vacated their offices under clause (a) shall be eligible for appointment or election.

Nevertheless it shall be lawful for the Lieutenant-Governor to direct that a local board re-established under this section shall consist entirely of appointed members, although such local board may have been established in a district mentioned in the third schedule of this Act.

133. If a dispute arises between two or more union committees within the area under the authority of a local board, the matter shall be referred to the local board, and the decision of such local board upon the matter so referred shall be final and binding.

134. If a dispute arises between two or more union committees within the areas under the authority of different local boards, the matter shall be referred to the local boards, and, if the local boards cannot agree, to the district board ; and the decision of such local boards or district board, as the case may be, upon the matter so referred, shall be final and binding.

135. If a dispute arises between two or more local boards within the area under the authority of a district board, the matter shall be referred to the district board, and the decision of such district board upon the matter so referred shall be final and binding.

136. If a dispute arises between a municipal authority or authorities and a local authority or authorities within the same district, the matter shall be referred to the Magistrate of the district, and the decision of the Magistrate upon the matter so referred shall be final and binding :

Provided that, if the Magistrate is a member of one of the authorities concerned, his functions under this section shall be discharged by the Commissioner,

137. If any dispute, for the decision of which this Act does not otherwise provide, arises between two or more local authorities, or between a local

Disputes between two or more union committees to be referred to local board.

Disputes between two or more union committees under the authority of different local boards to be referred to district board when local boards cannot agree.

Disputes between two or more local boards to be referred to district board.

Disputes between municipal authorities and local authorities in the same district to be referred to Magistrate of district.

Decision of disputes not otherwise provided for.

of 1885.]

SELF-GOVERNMENT ACT OF 1885.

(Part IV.—Control.—Sec. 138.)

authority or authorities, and a municipal authority or authorities, the matter shall be referred—

- (a) to the Commissioner or Commissioners of the division or divisions, if the local authorities concerned are in different districts; and
- (b) to the Lieutenant-Governor, if the local authorities concerned are in different divisions and the Commissioners of those divisions cannot agree.

And the decision of the Commissioner or Commissioners, or of the Lieutenant-Governor, as the case may be, upon the matter so referred shall be final and binding.

138. It shall be lawful for the Lieutenant-Governor to make rules,^[1] consistent with this Act, for any district board or local board or union committee for the purposes of—

Power of
Lieutenant
Governor to
make rules

- (a) determining the mode and time of appointment or election of members of boards and committees, the term of office, and the qualifications and disqualifications of such members, and the qualifications and disqualifications and the registration of voters and candidates, and generally for regulating all elections under this Act;
- (b) regulating the conduct of proceedings of boards and committees, including the manner in which the notices of a meeting shall be given, the fixing of a quorum, the due record of proceedings and the language in which business shall be transacted;
- (c) fixing the time within which a chairman or vice-chairman may be elected;
- (d) regulating the powers of district boards to transfer property;
- (e) regulating the powers of boards and committees to contract and do other things necessary for the purposes of their constitution and the mode of executing contracts;
- (f) determining the immediate offices, if any, through which correspondence between boards and committees, or members of boards and committees, and the Lieutenant-Governor or his officers, shall pass;
- (g) prescribing the qualifications of candidates for employment under section 38;
- (h) prescribing the times for holding meetings and for submitting statements, estimates, reports or accounts, under sections 46 and 47;

[1] For notes as to rules made under section 138, see p. 676, *ante*.

- (e) prescribing forms for statements, estimates and accounts and regulating the keeping, checking and publication of such accounts and the manner of periodical audit under sections 54 and 55 ;
- (f) regulating the maintenance and management of schools under sections 62, 63 and 64, the construction and repair of buildings connected therewith, and the appointment of masters and assistant masters, and the proper distribution of funds transferred to district boards under section 65 ;
- (h) regulating the control and administration of dispensaries, hospitals and places of reception for the sick, the construction and repair of buildings connected therewith, and the supply of medicines and medical assistance for the poorer inhabitants of the district ;
- (l) prescribing the procedure to be adopted in the appointment of the engineer to the district board under section 84, and regulating the performance and exercise of the duties and powers of such engineer and of the inspector of local works under sections 85 and 123, respectively ;
- (m) regulating the submission for approval of plans, designs, specifications and estimates under section 86 ;
- (n) regulating the duties and powers of district boards in regard to sanitation ;
- (o) regulating the duties of district boards in regard to taking a census ;
- (p) regulating the establishment and maintenance of staging bungalows and serais, the holding of fairs and exhibitions, the offer of rewards for the destruction of noxious animals, and the carrying out of any other work likely to promote the health, comfort or convenience of the public ;
- (q) regulating the powers of union committees in regard to primary schools and dispensaries under sections 112 and 113 ;
- (r) providing for the appointment and payment of auditors of the accounts of boards and committees ;
- (s) affording guidance to district boards when suits or other proceedings are threatened or have been instituted by or against them in Civil Courts ; and
- (t) generally determining the relations between district boards, local boards and union committees, and for the guidance of boards

of 1885.]

SELF-GOVERNMENT ACT OF 1895.

(Part IV.—Control.—Secs. 139-142.)

and committees and Government officers in all matters connected with the carrying out of the provisions of this Act; and may from time to time repeal or alter such rules.

Rules made under this section shall be published in such manner as the Lieutenant-Governor may direct, and shall thereupon have the force of law; and no rules under clause (a) shall come into operation until three months after they have been published as aforesaid.

Bye-laws.[1]

139. Every district board or local board, empowered in this behalf by the Lieutenant-Governor, may make bye-laws for carrying out all or any of the purposes of this Act.

Power of district board and local board to make laws.

Bye-laws made under this section shall have the force of law when confirmed by the Lieutenant-Governor and published in such manner and for such time as the Lieutenant-Governor may direct.

140. In making a bye-law under the last preceding section a board may provide that a breach of the same shall be punished with fine which may extend to fifty rupees, and in the case of a continuing breach with a further fine which may extend to five rupees for every day during which the breach is continued after the offender has been convicted of such breach.

Penalty for infringement of bye-law

141. Prosecutions under this Act for breach of bye-laws may be instituted by any board, or by any person authorized by the board in this behalf.

Prosecution

A Judge or Magistrate shall not be deemed to be, within the meaning of section 555 of the Code of Criminal Procedure, [2] a party to, or personally interested in, any case under this section merely because he is a member of the board.

10 of 1882.

Miscellaneous Provisions.

142. No person shall be liable for the loss, waste or misapplication of any money or other property belonging to the district board or union committee, unless such loss, waste or misapplication is a direct consequence of his neglect or misconduct while a member of a union committee, local board or district board, and a suit for compensation for the same may be instituted against him, in such Court as the Lieutenant-Governor directs, by the district

Liability of members of boards and union committees.

[1] For some bye-laws made under s. 139, see the Bengal Local Statutory Rules and Orders, 1903, Vol. I, p. 117.

[2] Act 10 of 1882 has been repealed and re-enacted by the Code of Criminal Procedure, 1898 (Act 5 of 1898), and this reference should now be taken to be made to s. 556 of the latter Act—see s. 3 (2) thereof, in General Acts, 1891-98, Ed. 1899, p. 382.

board with the sanction of the Lieutenant-Governor or by the Secretary of State for India in Council.

Procedure for making rules and bye-laws.

143. The Lieutenant-Governor, before making any rules under section 138, and a district board or local board, before making any bye-laws under section 139, shall publish in such manner as the Lieutenant-Governor deems sufficient for giving information to persons interested the proposed rules or bye-laws, together with a notice specifying a date on or after which the same will be taken into consideration; and shall, before making such rules or bye-laws, receive and consider any objection or suggestion which may be made by any person with respect to the same before the date so specified.

Every such rule or bye-law shall be published in the Calcutta Gazette in English and in such other language as the Lieutenant-Governor directs, and such publication shall be evidence that the rule or bye-law has been made as required by this section.

Penalty on member, officer or servant being interested in contracts made with a local authority.

144. If any member of a local authority, or any officer or servant maintained by or employed under a local authority, has, directly or indirectly, any share or interest in any work done by order of the local authority of which he is a member, or by which he is maintained, or under which he is employed, or in any contract with or under such local authority, he shall be liable on conviction before a Criminal Court to a fine which may extend to five hundred rupees:

Provided that the penalty herein prescribed shall not be deemed to apply by reason only of a person—

- (a) having a share in any joint-stock company which shall contract with, or be employed by, or on behalf of, the local authority; or
- (b) having a share or interest in any newspaper in which any advertisement relating to the affairs of the local authority may be inserted; or
- (c) holding a debenture or being otherwise concerned in any loan raised by, or on behalf of, the local authority.

Nevertheless it shall not be lawful for a person having any share or interest, such as is described in clauses (a) and (b), to act as a member of the local authority in any matter relating to a contract or agreement between the local authority and such company or the manager or publisher of such newspaper.

Power to make compensation out of the local fund.

145. Every local authority may make compensation out of the district or union funds respectively to any person sustaining any damage by reason of the exercise of any of the powers conferred by this Act.

of 1885.]

SELF-GOVERNMENT ACT OF 1885.

(Part IV.—Control.—Sec. 146.—The First Schedule.)

146. No suit shall be brought against the members of any district board, local board or union committee, or any of their officers, or any person acting under their direction, for anything done under this Act, until the expiration of one month next after notice in writing has been delivered or left at the office of such board or committee, and also (if the suit is intended to be brought against any officer of the said board or committee, or any person acting under their direction) at the place of abode of the person against whom such suit is intended to be brought, stating the cause of action and the name and place of abode of the person who intends to bring the suit ;

No action to be brought against the members of boards and committees or their officers until after one month's notice of cause of action.

and, unless such notice be proved, the Court shall find for the defendant.

- Every such action shall be commenced within three months next after the accrual of the cause of action, and not afterwards.

If any such person to whom any such notice is given shall, before suit is brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover.

THE FIRST SCHEDULE.

(see section 2.)

REPEAL OF ENACTMENT.

Number and year.	Subject.	Extent of repeal.
Bengal Act 9 of 1880.[1]	To amend and consolidate the law relating to rating for the construction, charges and maintenance of district communications and works of public utility and of provincial public works.	Sections 110 to 181, both inclusive. Section 182, clauses (a), (b), (c), (e), (g) and (h).

THE BENGAL LOCAL
(The Second Schedule.)

[Ben. Act 8]

THE SECOND SCHEDULE.

(see section 2.)

AMENDMENT OF ENACTMENT.

Number and year.	Subject.	Extent of amendment.
Bengal Act 9 of 1880. [1]	To amend and consolidate the law relating to rating for the construction, charges and maintenance of district communications and works of public utility and of provincial public works.	<p>In section 4 the following definitions shall be substituted for the definition of "the committee":—</p> <p>"'District board' means the board constituted under the provisions of the Bengal Local Self-government Act of 1885.</p> <p>"'District fund' means the fund formed under section 52 of the Bengal Local Self-government Act of 1885."</p> <p>In section 9, the words "and, together with other assets of such fund, shall be applied to the purposes mentioned in section [2] [109]" shall be omitted.</p> <p>The following section shall be substituted for section 88:—</p> <p>"The road cess for each year shall be assessed and levied in each district as provided in section 6, and (subject to the maximum rate in that section mentioned) at such rate as may be determined for such year by the district board."</p> <p>In section 40, omit the words "as provided in section 155."</p> <p>In sections 82 and 83, the words "district road funds" and "district road fund" shall be substituted for the words "committees" and "committee" respectively.</p> <p>In section 98, the words "district road fund" shall be substituted for the words "district road committee."</p> <p>In section 108, the words</p> <p>"and of all sums whatsoever which may be at the disposal of the district road committee as hereinafter appointed,"</p> <p>shall be omitted.</p> <p>The following new section shall be substituted for section 109:—</p> <p>"The district road fund of every district shall be applicable to the following objects and in the following order:—</p> <p><i>Firstly</i>.—To the payment of the cost of establishments entertained and expenses incurred by the Collector under section 91.</p> <p><i>Secondly</i>.—To the indemnification of the Collector, with the sanction of the Commissioner, for any other costs or damages which he may have incurred, or for which he may have become liable, in the course of the proceedings for the assessment and collection of the cesses under this Act.</p> <p>And the balance, after payment of such expenses, shall be credited to the district fund of the district."</p>

[1] Printed in Vol. I of this Code, p. 194.

[2] The figures "109" were substituted for the figures "111" by the Repealing and Amending Act, 1908 (1 of 1908), Sec. 2, printed in Vol. I, p. 62.

(The Third Schedule.)

THE THIRD SCHEDULE.

(see sections 6 and 9.[1])

Districts in every Sub-division of which a Local Board shall be established.

DISTRICT.	DISTRICT.
24-Parganas. Nadia. Murshidabad. Jessore. Khulna. Hooghly. Howrah. Burdwan.	Midnapore. Bankura. Birbhum. Dacca. Faridpur. Rajahmbye. Pudna. Patna.[2]

[1] This Schedule is also referred to in ss. 11, 14 and 15, printed *ante*, pp. 643 and 644.

[2] The district of Mymensingh has been added to this Schedule—see footnote on p. 644, *ante*.

Bengal
Appendix I.—[1] List of districts in which the Bengal Local Self-government Act of 1885 (Bengal Act 3 of 1885) has been declared in force under section 1.

Districts.	Date of notification.	Year, Part and page of Calcutta Gazette in which published.	Date appointed by the notification for the Act taking effect.
Backergunge	} 29th March, 1887.	1887, Part IB, p. 104.	1st April, 1887.
Balasore			
Bankura	1st October, 1886 .	1886, Part IB, p. 477.	1st October, 1886.
Bhagalpur	29th March, 1887 .	1887, Part IB, p. 104.	1st April, 1887.
Birbhum	1st October, 1886 .	1886, Part IB, p. 477.	1st October, 1886.
Bogra	29th March, 1887 .	1887, Part IB, p. 104.	1st April, 1887.
Burdwan	1st October, 1886 .	1886, Part IB, p. 477.	1st October, 1886.
Champanan	1st April, 1887.	1887, Part IB, p. 110.	1st April, 1887.
Chittagong	} 29th March, 1887.	1887, Part IB, p. 104.	1st April, 1887.
Cuttack			
Dacca	1st October, 1886.	1886, Part IB, p. 477.	1st October, 1886.
Darbhanga	1st April, 1887.	1887, Part IB, p. 110.	1st April, 1887.
Dinajpur	29th March, 1887 .	1887, Part IB, p. 104.	1st April, 1887.
Farrukpur	1st October, 1886 .	1886, Part IB, p. 477.	1st October, 1886.
Gaya	1st April, 1887.	1887, Part IB, p. 110.	1st April, 1887.
Hazaribagh	19th March, 1900 .	1900, Part IB, p. 52.	1st April, 1900.
Hooghly	} 1st October, 1886.	1886, Part IB, p. 477.	1st October, 1886.
Howrah			
Jalpaiguri	1st April, 1887.	1887, Part IB, p. 108.	1st April, 1887.
Jessore	} 1st October, 1886.	1886, Part IB, p. 477.	1st October, 1886.
Khulna			

[1] This list has been corrected up to the 16th February, 1905. It comprises all the districts in Bengal, except the Darjeeling and Singhbhum districts, the Sonthal Parganas, the Chittagong Hill-tracts and the Angul district.

It is intended to bring the Act into force in the Singhbhum district—see para. 1 (2) of the Notes on Clauses appended to the Bengal Local Self-government (Amendment) Bill, 1904, published in the Calcutta Gazette, 1904, Pt. IV, p. 42.

Appendix I.—List of Districts in which the Bengal Local Self-government Act of 1885 (Bengal Act 3 of 1885) has been declared in force under section 1—conold.

Districts.	Date of notification.	Year, Part and page of Calcutta Gazette in which published.	Date appointed by the notification for the Act taking effect.
Malda	29th March, 1887 .	1887, Part IB, p. 104.	1st April, 1887.
Manbhum	19th March, 1900 .	1900, Part IB, p. 55 .	1st April, 1900.
Midnapore	1st October, 1886 .	1886, Part IB, p. 477.	1st October, 1886.
Monghyr	29th March, 1887 .	1887, Part IB, p. 104.	1st April, 1887.
Murshidabad	1st October, 1886 .	1886, Part IB, p. 477.	1st October, 1886.
Muzaffarpur	1st April, 1887 .	1887, Part IB, p. 110.	1st April, 1887.
Myensingh	29th March, 1887 .	1887, Part IB, p. 104.	1st April, 1887.
Nadia	1st October, 1886 .	1886, Part IB, p. 477.	1st October, 1886.
Naokhali	29th March, 1887 .	1887, Part IB, p. 104.	1st April, 1887.
Palna	27th September, 1886.	1886, Part IB, p. 471.	1st October, 1886.
Palamau	19th March, 1900 .	1900, Part IB, p. 54 .	1st April, 1900.
Patna	1st October, 1886 .	1886, Part IB, p. 477.	1st October, 1886.
Puri	} 29th March, 1887.	1887, Part IB, p. 104.	1st April, 1887.
Purnea			
Raishahi	27th September, 1886.	1886, Part IB, p. 471.	1st October, 1886.
Ranchi	19th March, 1900 .	1900, Part IB, p. 58 .	1st April, 1900.
Rangpur	29th March, 1887 .	1887, Part IB, p. 104.	1st April, 1887.
Saran	} 1st April, 1887 .	1887, Part IB, p. 110.	1st April, 1887.
Shahabad			
Tippera	29th March, 1887 .	1887, Part IB, p. 104.	1st April, 1887.
24-Parganas	1st October, 1886 .	1886, Part IB, p. 477.	1st October, 1886.

Appendix II.—[1] List of Unions constituted by notification under section 38 of the Bengal Local Self-government Act of 1885.

1	2	3	4
District.	Unions.	Number and date of notification.	Year, Part and page of Calcutta Gazette in which published.
Balasore	Barhampur . . . Bhadrak . . . Jellasore . . . Remuna . . . Soro . . .	No. 3317-L. S. G., dated 8rd August, 1896.	1896, Pt. IB, p. 154.
Bankura . .	Kotalpur . . .	No. 1622-T. M., dated 5th September, 1902.	1902, Pt. IB, p. 169.
Burdwan	Buddipur . . . Bagnapara . . . Mankar Raipur . . . Memari . . . Sribati . . . Srikhanda . . .	No. 705-T. M., dated 17th October, 1895.	1895, Pt. IB, p. 234.
Hooghly	Balagarh . . . Bally . . . Chanditala . . . Haripal . . . Pandua . . .	No. 136-T. M., dated 14th June, 1895.	Ditto, p. 123.
Howrah . .	Amta . . . Bagunan . . . Dumjor . . . Jagatballabhpur . . .	No. 1099-L. S. G., dated 19th March, 1895.	Ditto, p. 59.

[1] This list has been corrected up to 15th February, 1905.

Appendix II.—List of Unions constituted by notification under section 38 of the Bengal Local Self-government Act of 1885—contd.

1	2	3	4
District.	Unions.	Number and date of notification.	Year, Part and page of Calcutta Gazette in which published.
Jessore .	Binodpur . . .	No. 149-T. M., dated 15th June, 1895.	1895, Pt. IB, p. 132.
	Garapeta . . .		
	Harinakundu . . .		
	Kalia . . .		
	Keshabpur . . .		
Khulna .	Bagerhat . . .	No. 150-T. M., dated 15th June, 1895.	Ditto, p. 134.
	Dumuria . . .		
	Kalaroa . . .		
	Magura . . .		
	Mulghar . . .		
	Senhati . . .		
Midnapore .	Contai . . .	No. 137-T. M., dated 14th June, 1895.	1895, Pt. IB, p. 126.
	Jara . . .		
	Nawada . . .		
	Panskura . . .		
	Pingla . . .		
Murshidabad .	Aurangabad . . .	No. 3104-L. S. G., dated 30th November, 1903.	1903, Pt. IB, p. 260.
	Choa . . .	No. 243-L. S. G., dated 19th January, 1903.	Ditto, p. 12.
	Dhulian . . .	No. 148-T. M., dated 15th June, 1895.	1895, Pt. IB, p. 131.
	Mirzapur . . .		
	Panchthupi . . .		
	Patkabari . . .	No. 150-T. M., dated 25th April, 1902.	1902, Pt. IB, p. 93.

LOCAL SELF-GOVERNMENT (DISTRICTS)

Appendix II.—List of Unions constituted by notification under section 83 of the Bengal Local Self-government Act of 1885—continued.

1.	2.	3.	4.
District.	Unions.	Number and date of notification.	Year, Part and page of Calcutta Gazette in which published.
Nadia . . .	Chudanga . . .	No. 1007-T. M., dated 12th March, 1895.	1895, Pt. IB, p. 54.
	Kissengunge . . .		
	Poradah . . .		
	Muragacha . . .	No. 73-T. M., dated 16th May, 1895.	Ditto, p. 103.
Nobkhali . . .	Fenny . . .	No. 61-T. M., dated 27th April, 1896.	1896, Pt. IB, p. 83.
	Haliya . . .		
	Lahmipur . . .		
	Sandip . . .		
Patna . . .	Shahzadpur . . .	No. 2532-L. S. G., dated 11th June, 1896.	Ditto, p. 119.
Tippura . . .	Laksam . . .	No. 938-L. S. G., dated 8th March, 1895.	1895, Pt. IB, p. 52.
	Madlab . . .		
	Nabinagar . . .		
	Sarail . . .		
24-Parganas . . .	Basdebpur . . .	No. 147-T. M., dated 15th June, 1895.	Ditto, p. 130.
	Itenda . . .		
	Jadurhati . . .		

LOCAL SELF-GOVERNMENT (TOWNS). *See*
MUNICIPALITIES, IN VOLUME IV.

Lunatic Asylums

2

— Ben. Act 1 of 1909. The Indian Lunatic Asylums (Amendment) Act, 1909—Supplement

